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Canada Royal Commission on  
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Hearings 1968

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# ROYAL COMMISSION

ON

## PILOTAGE

### HEARINGS

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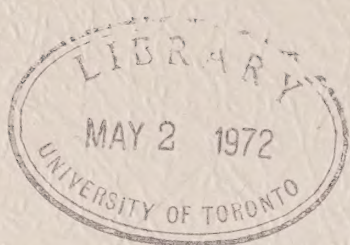
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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held  
within the Supreme Court Build-  
ing, Wellington Street, Ottawa,  
Ontario, on Tuesday, the 12th day  
of January, 1965.

THE COMMISSION:

The Honourable Mr. Justice Bernier -- Chairman  
Mr. Robert K. Smith -- Member  
Mr. Harold A. Renwick -- Member  
Mr. Gilbert Nadeau -- Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C. -- for the Shipping Feder-  
ation of Canada  
Mr. Marc Lalonde -- for the Federation of  
St. Lawrence River Pilots;  
Corporation of the Lower  
St. Lawrence Pilots;  
Corporation of the Montreal  
Harbour Pilots; Corpor-  
ation of the Mid-St. Lawr-  
ence Pilots; Corporation  
of the St. Lawrence  
River and Seaway Pilots;  
Corporation of the Upper  
St. Lawrence Pilots  
Mr. R. Langlois -- for the Canadian Merchant  
Service Guild  
Mr. J.J. Mahoney -- for the Dominion Marine  
Association  
Mr. R. Macgillivray -- for the Department of  
Transport







IW/rps

1 --- On commencing at 10:00 a.m.

2  
3 MR. MAHONEY (Dominion Marine  
4 Association): My lord, members of the Commission,  
5 I propose to be much more brief than my friend,  
6 Mr. Lalonde. I must say that this day has been a  
7 long time in coming, and one thought that it would  
8 never arrive. This has been a very long Commission,  
9 even longer than some of the other mammoth commissions  
10 attended by my friend, Mr. Lalonde. However, the  
11 job of counsel seems to be drawing to a close, and  
12 I think, perhaps, the job of the Commission is just  
13 beginning.

14 My lord, I wish to divide my argument,  
15 with respect to the evidence and the briefs which  
16 have been submitted, into roughly three categories,  
17 although I am afraid that I may switch back and  
18 forth a bit between them; but, very roughly, those  
19 three categories would be, first, an examination of  
20 the causes of the dispute, particularly within recent  
21 years; secondly, the case of the lake shipping  
22 industry for exemptions from pilotage; and, thirdly,  
23 an examination of the recommendations which have been  
24 made both by the Dominion Marine Association and  
25 other parties with respect to pilotage administration  
26 in the future. I say in the future because the  
27 question of pilotage administration in the past  
28 is really a part of the first topic which I should  
29 like to consider -- that is, the causes of the  
30 disputes between the parties, or, at least, the major







1 parties, which have been represented before this  
2 Commission.

3 Now, like Mr. Lalonde, I think I  
4 should say that there is not, generally speaking,  
5 much point in raking up past disputes, and certainly  
6 I feel that there should be no recriminations from  
7 any of the things which have happened in the past.

8 However, again like Mr. Lalonde, I  
9 think that some examination of this topic is essential,  
10 if only because we cannot know the correct way to  
11 proceed in the future unless we know the faults  
12 which we have had in the past, and from the disputes  
13 I think we can learn a great deal.

14 Mr. Lalonde, in his argument,  
15 divided this problem of disputes into three classes:  
16 that is, a genuine desire on the part of the pilots  
17 to improve working conditions; secondly, the ultra-  
18 conservative attitude of the shipowners; and,  
19 thirdly, the inefficiency of pilotage administration.  
20 These are Mr. Lalonde's words rather than my own.

21 I should like to examine all three  
22 of these categories.

23 Firstly, my lord and members of the  
24 Commission, with respect to the desire of the pilots  
25 to improve working conditions: unfortunately, in  
26 his exposition on this category my friend, Mr.  
27 Lalonde, did not -- at least, so far as I was able  
28 to grasp -- define exactly what he meant by "working  
29 conditions," and I feel, as my friend, Mr. Brisset  
30 remarked, that in a sense Mr. Lalonde and the pilots





1 are attempting to have the best of both worlds. They  
2 are arguing, on the one hand, that they are a profes-  
3 sional class, and at the same time they are, and  
4 have been for some time, using all the arguments  
5 as well as the weapons which are generally associated  
6 with the labour force -- that is, the right to strike  
7 and many of the other instruments which are recognized  
8 and used by labour unions and by labour, generally.  
9 In using the words "working conditions," again,  
10 my friend seems to be leaning heavily on the labour  
11 side rather than on the professional side of his  
12 case.

13 I should like to inquire what he really  
14 means when he uses the expression "working conditions?"  
15 Normally this term is applied to the actual physical  
16 conditions of work in a plant or in an area with  
17 respect to the labour force. Now, obviously, I  
18 think, Mr. Lalonde cannot mean his use of the term  
19 "working conditions" to apply to the physical work-  
20 ing conditions. It would be too much to expect that  
21 the occupation of a pilot could be carried on in the  
22 same conditions at all times. Ships vary and the  
23 weather varies. It would be asking the impossible  
24 to suggest it. On the other hand, there is a  
25 similarity with what you might call physical plant  
26 conditions if we speak of pilot boats, the quality  
27 of pilot boats, or their size, or the efficiency  
28 of pilot boats, or if we speak of pilot stations; and  
29 in the evidence which has been presented to the  
30 Commission there has been a great deal of consideration







1 given to the quality of pilot boats and also the  
2 the quality of certain of the pilotage stations.  
3 There were reference made particularly in Quebec,  
4 I recall, and with respect to Les Escoumains, to  
5 the conditions, and I might even state the expression  
6 was the "shocking conditions," of some of these  
7 pilotage stations.

8 In spite of the fact that this  
9 evidence has been given, I do not believe that  
10 Mr. Lalonde was referring to this, or certainly  
11 not only to this, when he used the term "working  
12 conditions." On the other hand, the term "physical  
13 working conditions" could apply to the actual  
14 physical characteristics of the territory in which  
15 the pilots are operating -- that is, the aids to  
16 navigation, or lack of aids to navigation, and  
17 improvements, or lack of improvements, in the navig-  
18 able channels; and these, too, would be called  
19 working conditions in the physical sense; if an  
20 adequate job was not being done by the property  
21 Authority with respect to such physical conditions,  
22 then the pilots would have a justifiable complaint;  
23 and there has been evidence given before this  
24 Commission in a number of cases of specific  
25 complaints with regard to these physical character-  
26 istics.

27 However, in my analysis of the  
28 evidence which has been presented to the Commission,  
29 I note one rather striking feature, and that is that  
30 all of the witnesses representing government agencies,







1 who appeared before this Commission, were asked  
2 whether the pilots at any time made any sort of  
3 formal representations with respect to aids to  
4 navigation, or physical improvements in the river,  
5 and uniformly these officials replied that, while  
6 they had discussed individual aids, from time to  
7 time, with individual pilots, on no occasion within  
8 their memories had formal representations been made  
9 with respect either to an individual reference to  
10 an aid to navigation, or to several aids to navig-  
11 ation; and I should like to deal with this subject  
12 at greater length when I ask the Commission to  
13 consider some of the work which has been done by  
14 the lake shipping industry in this regard.

15 So I do not believe that Mr. Lalonde  
16 could have been referring to this sort of "working  
17 conditions" when he used that expression; and, having  
18 disposed of these two possibilities, we are really  
19 left with the conclusion that in speaking of "work-  
20 ing conditions," my friend really meant the desire  
21 of the pilots to improve their status, that is,  
22 their professional status, if you will, and to  
23 improve their financial rewards; and -- and I think  
24 this, perhaps, would be getting even closer to the  
25 truth -- to bring about a change within their  
26 own internal organization.

27 Now, my lord and members of the  
28 Commission, all three of these aims are certainly  
29 nothing to be ashamed of, and I feel strongly that  
30 if this is what Mr. Lalonde meant, he should have







1 said so, because these are most laudable aims. They  
2 are the aims which have motivated labour for many  
3 years, and there has been, in the post-war years,  
4 a decided increase in the tempo of this motivation,  
5 generally, and I think it is realistic to assume that  
6 there would be a similar increase in tempo in the  
7 pilotage field; so that I think this is nothing of  
8 which the pilots should be ashamed. But I do feel  
9 that if this is their aim -- and I assume it to be  
10 such -- then it should have been stated at such  
11 instead of referring to "working conditions" with-  
12 out definition, because this might have led to  
13 enlightenment in determining exactly what the pilots  
14 were trying to do, what they were attempting in  
15 the post-war years. I think Mr. Lalonde has given  
16 us several hints that this is what he really had  
17 in mind, because in discussing the conditions under  
18 which the pilots work, he made several references  
19 to what I would consider to be internal matters  
20 affecting the organization of the pilots them-  
21 selves. He said that there was a feeling of  
22 insecurity on the part of the pilots, and that they  
23 could not be certain of their own status, nor could  
24 they be certain even of their stability as pilots  
25 -- their stability in employment; and this insecurity,  
26 or instability, can be traced directly back to the  
27 system of special pilots within the pilotage  
28 organization.

29 Mr. Lalonde then moved to his second  
30 category and dealt with this matter in the second

AA2







1 category -- that is, the ultra-conservative attitude  
2 of the shipowners. During his argument, with respect  
3 to this point, he referred back to the 1913 Royal  
4 Commission on Pilotage and stated that even at that  
5 time the Commission had recommended the abolishment  
6 of the special pilot system. He inferred, but he  
7 did not state, that it took 40 years for the ship-  
8 owners to agree to the abolishment of the special  
9 pilot system after it had been originally recommended.

10 Now, I have no doubt that the ship-  
11 owners, and, in particular, the ocean shipowners,  
12 because this system in the lower river at least  
13 did not specifically apply to lake ships -- that  
14 they were at least equally responsible with the  
15 pilots for the setting up of the special pilot  
16 system, but they were not wholly responsible for it.  
17 The special pilot system was the whole basis. It  
18 was, in effect, the backbone of the pilotage  
19 system for many years; and so far as the Shipping  
20 Federation, or the ocean shipowners were concerned,  
21 it was not only an attractive system, but an efficient  
22 and workable system. The lake shipowners did not  
23 become involved in this particular matter until  
24 after the opening of the Seaway, when they became  
25 very interested at that time, because they found  
26 that all of the more efficient men, experienced  
27 pilots, were special pilots and were being used  
28 by the ocean ships and, therefore, the lake ships,  
29 and, in particular, the large new lake ships, were  
30 not able to use the special pilots; and the lake

A3





1 shipowners were as much against the system as the  
2 pilots themselves. But I think that it is unfair  
3 to say that it was the ultra-conservative attitude  
4 on the part of the shipowners, and specifically the  
5 Shipping Federation, which perpetuated this system  
6 over 40 or 50 years. I think that the pilots them-  
7 selves perpetuated this system. It was the whole  
8 backbone of the system. It was not until the post-  
9 war years, as my friend, Mr. Lalonde said, when there  
10 was an infusion of new blood into the pilotage  
11 districts, that anyone became dissatisfied -- that  
12 the pilots' organization became dissatisfied -- with  
13 the special pilot system; and the Shipping Feder-  
14 ation at that stage can hardly be blamed for going  
15 along with the system which had existed quite  
16 comfortably for 40 or 50 years. Perhaps they should  
17 have recognized the evidence of change within the  
18 pilots' organizations, and my friend blames them  
19 for not recognizing this change, but quite frankly  
20 that change was not apparent on the surface, and  
21 I think the evidence which has been presented to  
22 this Commission shows that an outsider, looking at  
23 the pilotage organization, could not see what Mr.  
24 Lalonde refers to as the true meaning for the change  
25 within the organization; and so it is only natural  
26 that these changes were looked upon with some  
27 misgivings and some distrust.

28                   However, I think that the evidence is  
29 also clear that when the pilots clearly stated their  
30 case for abolition of the special pilot system, and







1 when the Dominion Marine Association backed the  
2 pilots in that request, the Shipping Federation at  
3 that stage showed no more reluctance and, quite  
4 possibly, less reluctance, than the normal industrial  
5 organization shows towards change. There is an  
6 inertia in these things which must be overcome; and  
7 my own recollection -- and I am certain that it is  
8 in the evidence -- is that from the time when the  
9 idea of a system different from the special pilot  
10 system was introduced into the discussion until the  
11 time when it was actually enacted took a year, and  
12 possibly a little more, but certainly it was not  
13 a long period of time. And I think that I must stand  
14 up for the Shipping Federation to this extent, that  
15 in making a change which was basic to their thinking  
16 and which had been basic to their thinking for so  
17 many years, they showed a great deal of flexibility  
18 and they cannot really be considered as ultra-conser-  
19 vative or intransigent as my friend, Mr. Lalonde,  
20 said they were.

21 On the other hand, I think it is a  
22 fact that it took the pilots so long to overcome  
23 the defects in their own organization which prevented  
24 the abolition of the special pilot system, in spite  
25 of the inequalities and inequities which, Mr. Lalonde  
26 has pointed out -- and quite validly -- existed  
27 in the system in the pre-war years and during the  
28 war and even during the early post-war years,  
29 where people who wanted to be pilots became appren-  
30 tice pilots and acted as apprentice pilots for many







1 years before they were able to break into the system.  
2 It was a paternalistic system in the sense that  
3 family relationships involved -- a much more truly  
4 paternalistic system, I would suggest, than the  
5 paternalism my friend Mr. Lalonde accuses the Ship-  
6 ping Federation of having adopted towards the pilots.  
7 This was a family organization, and the young pilots  
8 were kept at the bottom grade for as long as possible  
9 for the, perhaps, just reason the experienced men  
10 saw only so much money in the profession of pilotage  
11 and felt that to share it around to any large extent  
12 would lessen the income of all; and there is no  
13 criticism of this. But, on the other hand, I  
14 strongly suggest that if there was an ultra-conserva-  
15 tive attitude here; if there was intransigence here,  
16 it was an attitude, an intransigence on the part  
17 of the pilotage organizations and not on the part  
18 of the shipping companies.

19 My friend moved on from there to his  
20 third point, which was the inefficiency of pilotage  
21 administration. With respect to that, he pointed  
22 out a very large number of matters which he said  
23 led to the conclusion that the administration of  
24 pilotage has been inefficient; and he went further  
25 in certain instances and stated that, in fact, it  
26 had been incompetent. Again, I feel that this is  
27 stating the case too strongly. The pilots and the  
28 Shipping Federation have both stated that they were,  
29 and are, unhappy with the system of pilotage, or  
30 the system of pilotage administration as it has existed





1 now for many years; and the Dominion Marine Assoc-  
2 iation has indicated that it supports the unhappiness  
3 of both the pilots and the Shipping Federation in  
4 this respect. This is a very important unanimity,  
5 because it is an unanimity which exists among three  
6 parties who are otherwise at opposite poles in their  
7 thinking. And I think, my lord and members of the  
8 Commission, that it should be particularly impressive  
9 to the Commission if all three of the major parties  
10 involved in this geographical area of your invest-  
11 igation agree on this one point.

12 On the other hand, I think that some-  
13 thing must be said in defence of the Civil Servants  
14 who have administered the pilotage system for many  
15 years, and I am inclined to doubt that the Civil  
16 Service itself will say anything in its defence in  
17 case it might be accused of taking political sides in  
18 a dispute. However, I feel quite strongly that  
19 a defence should be pointed out.

20 It has been said that there was  
21 confusion in the definition of the Pilotage Authority,  
22 as opposed to the role of the Department of Transport;  
23 and with this I entirely agree. I entirely support  
24 my friend Mr. Lalonde's exposition of this subject;  
25 and I feel that within the Department of Transport  
26 there was confusion and misconception as to the true  
27 role of the Department and, in fact, the very limited  
28 role legally which the Department could and should  
29 have played. Yet, on the other hand, I think it  
30 is most unfair to even infer that the Department and







1 the Department officials were either incompetent or  
2 inefficient or lax in trying to bring about a system  
3 of negotiation which could have solved some of the  
4 problems which were facing the parties to this  
5 dispute. It is my distinct recollection -- and the  
6 events which led up to this have been brought to the  
7 attention of the Commission -- that when Mr. Cumyn  
8 was placed in charge of the Department's administra-  
9 tion of pilotage, one of his first moves was to  
10 attempt to create a rational system of negotiation  
11 or effect collective bargaining, and I do not think  
12 this has been recognized and I do not think its  
13 value has been recognized. This was a serious attempt  
14 to end some of the problems which existed.

15 As the Commission will recall, the  
16 idea at that time was that meetings would be held  
17 once in a year, and prior to those meetings, the  
18 demands or requests of the parties, pilots and  
19 shipowners, would be submitted to the Department,  
20 preferably in writing, but perhaps not necessarily,  
21 and that several days would be set aside -- and, as  
22 I recall, it was at least two days -- for a discussion  
23 among all of the parties on the problems which  
24 existed and on the demands which were being made.  
25 The idea, of course, then was that having heard these  
26 arguments, the Department officials would sit much  
27 as conciliators and would hear the arguments and  
28 make recommendations to the Pilotage Authority --  
29 that is, the Minister, the only person with the  
30 legal authority to implement such changes.







1                   This was something which was badly  
2 needed, a conciliator to stand between the parties  
3 and to adjudicate on the reasonableness of the demands  
4 which were being made. And whether or not any of  
5 the parties were satisfied with the results which  
6 came from those meetings and from that conciliation  
7 -- and I must say the Dominion Marine Association were  
8 as dissatisfied with the results as were the other  
9 two parties -- nevertheless, this was a genuine  
10 and well-thought-out attempt to solve very real  
11 problems in the best way that it could be done within  
12 the framework of the system which existed.

13                   If it failed, it failed for two  
B2 14 reasons: firstly, it failed because of the unwilling-  
15 ness of the parties themselves to accept the  
16 decisions which were made; and, secondly, it failed  
17 because there was vacillation within the Department  
18 itself, first as to the taking of a firm step and,  
19 secondly, as to maintaining the principle that  
20 meetings should only be held and negotiations should  
21 only take place once a year.

22                   I think in fairness to the Department  
23 officials, this again was not entirely their fault,  
24 because they were faced with and had to work within  
25 a system which bred confusion, and where any decision  
26 which they made had no real teeth -- it could not  
27 be fully implemented because of the political  
28 possibilities, "political" in the sense of pressure  
29 which could be applied to circumvent the system within  
30 a system which the Department officials were attempting





1 to set up. And my friend Mr. Lalonde raised the  
2 complaint that when such meetings were held, any  
3 party to the dispute could, at any time, raise a  
4 problem and force the Department to conciliate it  
5 rather than following the system which had been set  
6 up. I think quite unfairly he said, for example,  
7 the D.M.A. could do this. I say "unfairly" because  
8 I cannot recall a single incident after the setting  
9 up of this system where the Dominion Marine Assoc-  
10 iation or the Shipping Federation asked for a  
11 consideration of a particular problem between the  
12 negotiation dates set by the Department.

13 On the other hand, I recall, and I  
14 believe it is in evidence, certain specific instances  
15 where, within a matter of weeks after the annual  
16 meetings had been held and the decisions handed  
17 down with respect to tariff changes, that the  
18 pilots' corporations, as I say, within a matter of  
19 weeks, made fresh demands which had to be negotiated  
20 separately. It is very difficult to castigate  
21 the Department officials for inefficiency in  
22 administration when this sort of thing was happening.  
23 I think it is something which the Commission should  
24 bear in mind, because the Department of Transport  
25 officials who were assigned to these duties -- and  
26 I believe most of them have appeared as witnesses  
27 before the Commission, so that the Commission has  
28 had an opportunity to assess them as well -- in  
29 fact, all of these officials are people who had a  
30 genuine desire to settle the problem in the fairest







1 possible way, at least insofar as they conceived the  
2 problem and the solution. I think they should have  
3 certain recognition for that, even though they may  
4 have made mistakes, as we all do.

5 In their administration, I feel it  
6 would have been almost impossible for them to have  
7 done otherwise, and I do not feel that any of the  
8 individuals in any of the major parties at interest  
9 before this body, quite frankly, faced with the  
10 same problems, could have found solutions which would  
11 have satisfied all of the parties.

12 Remaining with the Department for the  
13 moment, my friend Mr. Lalonde raised one complaint  
14 with which I have a great deal of sympathy. He  
15 said, firstly, that within the Department organization  
16 there were no people who had experience of admin-  
17 istration at a local level. This part of his point  
18 I do not fully support, because I feel that vocal  
19 experience is not necessarily a good thing. I think  
20 this is purely a theoretical argument, and do not  
21 intend to press it, but I must disagree with that  
22 point. I do not think that because a man has not  
23 had experience at a local level he is necessarily  
24 a bad administrator of local areas. But, the point  
25 he raised with which I do sympathize is the point  
26 that there are, at this time, no French-speaking  
27 officials within the Department. I sympathize with  
28 this point because we have made exactly the same  
29 complaint from a slightly different direction for  
30 many years.





1 The lake shipping industry has  
2 complained there have been no native Canadians  
3 administering their affairs in the Department of  
4 Transport. This is, perhaps, even more basic than  
5 Mr. Lalonde's point, because it includes Mr. Lalonde's  
6 point.

7 The answer which has always been  
8 given with respect to this is that the requirements  
9 which the Department has and which the Civil Service  
10 demands are such that natively-trained Canadians  
11 either do not have these qualifications, the  
12 facilities not existing in Canada, or are not  
13 interested in answering the advertisements put out  
14 by the Department. It may be this is a complete  
15 answer and it is completely justified, but I raise  
16 it only because I do sympathize with Mr. Lalonde's  
17 point.

18 If the Department has difficulty in  
19 this respect, either in obtaining people with a  
20 local knowledge of conditions, a Canadian knowledge,  
21 and/or people who are bilingual, then they should  
22 re-examine their own requirements to see if they  
23 are not requiring something which is entirely  
24 superfluous, and that the Department should make  
25 a very strong effort to correct this situation,  
26 because it is very difficult for someone who has  
27 not been trained or brought up within a system or  
28 industry to appreciate what the particular problems  
29 of that industry are, and he might even have pre-  
30 conceived ideas which are contrary to the interests







1 of that industry by reason of his exposure to an  
2 industry in quite a foreign land. So, I wish to  
3 say I support this criticism, if such it is, of the  
4 Department's policy, although I think it is really  
5 the fault of policy at a higher level, and I think  
6 perhaps it is something which is gradually changing  
B3 7 through the years.

8 My friend also referred to what he  
9 called the autocratic manner of persons within the  
10 Department, both with respect to the Great Lakes  
11 pilotage legislation, and I think later on he  
12 mentioned -- and I may have been wrong about this,  
13 but I believe he mentioned it also in connection with  
14 a request by pilots with respect to a change in a  
15 certain aid to navigation.

16 I would say, my lord and members of  
17 the Commission, with respect to the Great Lakes  
18 pilotage legislation, that this was not an autocratic  
19 attitude on the part of Department officials, but  
20 simply the attitude of a government official who  
21 is faced with the necessity of negotiating a  
22 diplomatic agreement with another country; and I  
23 do not believe that in such circumstances it is  
24 always possible to follow the wishes of all of the  
25 local parties which are involved; and on many occasions  
26 the refusal to do this can be interpreted, and  
27 often is interpreted, as evidence of an autocratic  
28 manner.

29 With regard to the other incident  
30 which my friend mentioned, I must say -- and a good





1 deal of evidence was offered by the Dominion  
2 Marine Association as to the role of its navigation  
3 committee -- that during the many years in which  
4 this committee has operated in close liaison with  
5 officials of the Department of Transport and other  
6 departments of the government, I do not think there  
7 has ever been evidence of an autocratic manner on  
8 the part of the Department. The Department of  
9 Transport and all Departments of the Government, in  
10 fact, have been more than co-operative.

11 The fact that on many occasions they  
12 must turn down a recommendation, and sometimes turn  
13 it down quite bluntly and for reasons which the  
14 committee or individual does not perhaps like, is  
15 not, in my opinion, evidence of an autocratic manner.  
16 You must look at the whole relationship and examine  
17 the things which the departments are attempting to  
18 do for the industry, as well as the cases where  
19 they must refuse for one reason for another.

20 Finally, with respect to this  
21 particular point, Mr. Lalonde stated there was a  
22 lack of trust on the part of officials of the Depart-  
23 ment in their dealings with the pilots. Again, I  
24 am suffering from difficulties of translation, and  
25 I may have misinterpreted my friend, but I took it  
26 from that that he was not imputing any breach  
27 of a trust, fiduciary or otherwise, but the attitude  
28 of Department officials was they did not trust some  
29 of the things the pilots were bringing forward. They  
30 more or less tried to keep them at arm's length.







1 Mr. Lalonde said really the same  
2 thing with respect to the Shipping Federation and  
3 the shipping industry, generally, that they took a  
4 suspicious attitude with respect to the proposals  
5 which the pilots were making. I think this is  
6 quite true. I think this is, in part, the normal  
7 reaction, either of a government agency or manage-  
8 ment, to a request, particularly when the request  
9 may appear to be somewhat radical. It is also the  
10 attitude which management always has when first  
11 faced with wage demands or demands for salary  
12 increases on the part of employees; and I am not  
13 suggesting that an employer-employee relationship  
14 existed here, but the simile is the same.

15 The true test, however, is not and  
16 cannot be the original suspicion with which someone  
17 looks at a proposal, but rather whether there is  
18 a true negotiation following the presentation of  
19 that proposal. With respect to this -- and I feel  
20 this is really the nub of all of the difficulties  
21 which have existed between the pilots and the ship-  
22 owners and, possibly, the Department as well, in  
23 recent years -- there has always been a "chip-on-  
24 the-shoulder-attitude." It does not just apply to  
25 the shipowners; it does not just apply to the pilots;  
26 it does not just apply to officials of the Department  
27 of Transport: it is an attitude of mind which  
28 certainly has existed in recent years, and I think  
29 it has existed as long as there has been pilotage  
30 and as long as there have been labour and management.





1 I think it is not something which should cause bad  
2 feeling, that it is a natural attitude in any  
3 negotiation, but the point is that it existed to  
4 a more or less degree on the part of all of the  
5 interested parties, and not as my friend Mr. Lalonde  
6 stated, simply on the part of shipowners or officials  
7 of the Department of Transport.

8 I have raised these perhaps criticisms  
9 of the three causes for the dispute which my friend  
10 raised in his argument, not because I wish to be  
11 overly critical of the points which he made during  
12 his argument, but simply because I felt that even  
13 at this late stage there was too much of an attempt  
14 being made to cast the blame from one party to other  
15 parties. On the other hand, I feel that I should say  
16 that my friend Mr. Lalonde's exposition of the  
17 events which took place within the pilotage organ-  
18 izations themselves was a masterful -- and I use  
19 that word advisedly -- a masterful summary of the  
20 ferment which had developed within the pilots'  
21 organization; and it was masterful because, in spite  
22 of the fact he took two and a half days to bring  
23 it out, it was really a very short time to summarize  
24 not only the massive evidence, but also events  
25 which took place over a long period of years.

26 Because of his summary of those  
27 events and the motivations which brought them about,  
28 I feel that I and the Commission, too, have a  
29 better understanding of what was being attempted --  
30 what really were the causes which were developing







1 in the pilots' organizations leading to the sort of  
2 corporation and organization with which we have  
3 been dealing now for some years and with which the  
4 Commission is familiar, and upon which the Commission  
B4 5 will, in effect, have to pass judgment.

6 I can truly appreciate the position  
7 of the persons within the pilotage districts and  
8 organizations which led them to attempt to set up  
9 a new system which would provide for a fairer distri-  
10 bution of effort and income and recognition within  
11 their own groups. I appreciate the reasons for this,  
12 and I myself would come to the conclusion that what  
13 was done in the setting up of such corporations  
14 was a worthwhile solution to the problems which  
15 existed in the pilots' organization and was a good  
16 thing.

17 I think that the Dominion Marine  
18 Association would agree that the pilots are entitled  
19 to have such organizations as the corporations, in  
20 the same manner as any professional or semi-professional  
21 group -- and that is what this is -- are entitled to  
22 have such organizations, and are entitled to a  
23 certain extent, at least, to govern their own  
24 affairs. Whether this transition took place in a  
25 perfectly democratic manner or not, I am frankly in  
26 some doubt having read the evidence.

27 As I say, I recognize the reasons  
28 behind it; I recognize the necessity for it. I  
29 cannot say, however, either from the evidence generally  
30 or from my own cross-examination of Captain Rousseau,





1 that I can reach the conclusions, nor, with respect,  
2 do I feel the Commission can reach the conclusion,  
3 that everything that was done was done in a completely  
4 democratic manner.

5 I think the fact that there is  
6 dissention even now within the pilots' organizations,  
7 and that various pilots have seen fit to present their  
8 own briefs -- I think that fact in itself is evidence  
9 of a least a suspicion that not all of the wishes  
10 of the pilots were complied with in the setting  
11 up of these organizations; secondly, that the  
12 dissention which exists, coupled with some of the  
13 provisions of the bylaws of these organizations, is  
14 such as to arouse the suspicion -- and it is nothing  
15 more than that -- that in future not all pilots  
16 can be guaranteed that their wishes can be  
17 democratically dealt with by these organizations.

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/GB/rps 1                                    Therefore, while I must agree that  
2                                    the pilots are entitled to be organized, and, to  
3                                    carry it further, that their organizations are  
4                                    entitled to be organized as they are in the Feder-  
5                                    ation, I cannot fully agree to, and I submit that the  
6                                    Commission must examine very cautiously, the present  
7                                    set-up to determine if what has been set up is an  
8                                    organization which can be given the very broad  
9                                    powers which my friend wants these corporations to  
10                                   be given. I find no objection to a man or an  
11                                   organization wishing to use the instruments and  
12                                   weapons -- if we may call them that -- of the labour  
13                                   force to achieve his ends even though he has a  
14                                   professional status. I do not think that we can  
15                                   object to the pilots using the right to strike  
16                                   because we say these are professional people who  
17                                   should not exercise such a right. It is very difficult  
18                                   to object to that when in this day and age we see  
19                                   professional persons such as doctors exercising  
20                                   the right to strike, and with a good deal of support  
21                                   from the public. Surely, if these people who have  
22                                   an even higher responsibility to the public, I would  
23                                   submit, than the pilots can exercise such a right,  
24                                   then the pilots can do it. I do not believe there  
25                                   is anything inherently wrong with this, although  
26                                   perhaps I would reserve my opinion if I were asked  
27                                   the same question about the medical profession.

28                                   But, on the other hand, if the pilots  
29                                   do wish to exercise this right then they in turn  
30                                   should not complain of measures which are taken by





1 the other side against such an exercise.

2 It is, in effect, as Mr. Brisset  
3 stated the other day, a case of where you have a  
4 paternalistic system which means that you are  
5 looking upon some people as children. If you do  
6 not want that you must not complain if you are  
7 treated as an adult, or if there is a free play of  
8 forces.

9 Quite frankly, I would not like to  
10 see -- and I submit that the Commission should hesitate  
11 before considering it -- a system which would be  
12 so free as to allow the full play of these forces,  
13 such as you have them in labour. I do not believe  
14 that the pilots' organizations would want this any  
15 more than the shipping companies would want it. I  
16 think that an opportunity exists in the debates of  
17 this Commission to ensure that a system is set up  
18 which will allow full negotiation between the parties,  
19 and a reasonable method of settling disputes without  
20 the necessity for the exercise of these extreme  
21 measures by one party or by the other party.

22 While I appreciate the causes which  
23 have led to the existence of the corporation, and I  
24 recognize in the situation which we have had over  
25 a period of years the pilots were fully justified  
26 in exercising their rights, I feel that it would be  
27 a serious mistake to create either a system which  
28 allowed such exercise in future or, conversely, a  
29 system which had no built-in method for the settlement  
30 of disputes in accordance with something which has







1 a very large part in the democratic process, which  
2 my friend cited in describing the building up of the  
3 corporations, and that is the rule of law which has  
4 a very large place in the democratic process -- in  
5 fact, I think we can say it is that upon which the  
6 democratic process is founded. It is all very well  
7 to say that democracy, whether it is applied to a  
8 nation or to a pilots' corporation, is merely the  
9 expression of the will of the majority, but there  
10 must be methods of appeal, and these methods of  
11 appeal are something which must be set apart from  
12 the ordinary occupations of men.

13 This we have attempted to do on a  
14 national scale by appealing to courts, and I feel  
15 quite strongly that I must object to the recommendation  
16 made by the pilots that corporations and federations  
17 should be given the complete right to administer  
18 their own affairs.

19 My lord, I propose to move on to  
20 another point, and ---

21 THE CHAIRMAN: Yes, if you wish to  
22 have a rest now we shall adjourn for a few minutes.

23  
24 --- A short recess.

25  
C2 26 MR. MAHONEY: My lord and members  
27 of the Commission, I wish now to pass on to the  
28 question of exemption for lake vessels, as it has  
29 been requested and recommended in the brief submitted  
30 by the Dominion Marine Association. This problem of





1 exemptions is one of very long standing in the  
2 history of pilotage, particularly in the St. Lawrence  
3 River. In the brief submitted by the Association,  
4 we have pointed out that, traditionally, exemptions  
5 were made available to domestic ships -- to ships  
6 engaged in the coasting trade in its broad sense --  
7 in this particular area of Canada. We made refer-  
8 ence to the various pieces of legislation since  
9 Confederation and, indeed, since prior to Confeder-  
10 ation, and I do not propose to go into that side  
11 of the argument in great detail. It is set out in  
12 the brief, and, with respect, it is a question of  
13 legislation -- traditional legislation which cannot  
14 be doubted.

15           The Canadian legislation is similar  
16 to legislation which has existed in all maritime  
17 countries, and I think it cannot be disputed that  
18 there is a traditional principle throughout the  
19 maritime world, that coasting vessels and ships  
20 which can be categorically stated to be familiar,  
21 through their officers, with a particular area have  
22 not been forced to take pilots. This principle  
23 has indeed been stated not only in legislation, but  
24 has been referred to in a number of reported cases.  
25 There comes to mind a judgment of Dr. Lushington,  
26 for example, in which he described the role of the  
27 pilot, and stated that it was traditional that where  
28 a ship had officers which were familiar with the area  
29 then the role of the pilot more or less disappeared;  
30 he was there to supply a local knowledge, and if that







1 local knowledge existed without his presence then  
2 his presence was neither required nor was it fair  
3 or equitable to force a ship with that knowledge  
4 to carry such a pilot.

5 COMMISSIONER SMITH: Excuse me for  
6 interrupting you, but is that an American or an  
7 English decision?

8 MR. MAHONEY: That is an old English  
9 decision, sir. I do not believe I made specific  
10 reference to it in this particular brief, although  
11 in an older brief, which I think may be in evidence  
12 before the Commission -- I believe my friend, Mr.  
13 Lalonde, referred to this particular brief in his  
14 argument. I do not have the citation. It would be  
15 in the brief submitted by the Association in December,  
16 1960.

17 The reasoning behind the request of  
18 the lake shipping industry for exemption is, there-  
19 fore, based on the traditional handling of this  
20 problem not only in the St. Lawrence but elsewhere  
21 in the maritime world.

22 Now, while I do not propose to examine  
23 the legislation in detail, I would point out that  
24 while the exemptions have for a number of years now  
25 been related to particular tonnage, there is reason  
26 behind the specification of that tonnage. The reason  
27 for it is that at the time the tonnage limitations  
28 were imposed, the Canadian coasting vessels which  
29 were trading in that area were ships which all feel  
30 below that tonnage limitation -- which necessarily





1 fell below the tonnage limitation because of the  
2 limitations of the old Lachine Canal. I think it  
3 is clear that the tonnage limitation was placed in  
4 The Canada Shipping Act and allowed for in the  
5 bylaws of the pilotage districts, in an effort to,  
6 in a sense, circumvent the provisions of the  
7 Commonwealth Merchant Shipping Agreement. Governments,  
8 of course, do these things as well as everyone else.  
9 The fact is that during that period British-flag  
10 ships were being used in the coasting trade. Captain  
11 Bodensieck, when he was giving his evidence before  
12 the Commission, was cross-examined on this point  
13 because of his experience in ships during the '20's  
14 and '30's in the St. Lawrence River and the Gulf  
15 of St. Lawrence. He stated that at that time certain  
16 interests in the Maritimes were chartering British-  
17 flag ships, and operating them in the coasting trade.

18 Now, those ships were all slightly  
19 over the tonnage limitation, and it is my interpret-  
20 ation of what occurred at that time that the tonnage  
21 limitation was set at the figure at which it was  
22 set in order that Canadian coasting vessels would  
23 have the exemption but that British-flag vessels  
24 would be prevented from taking advantage of the  
25 exemption. This, again, was quite in accord with  
26 the traditional principle of exemption for coasting  
27 ships -- that principle being that domestic ships  
28 familiar with the area should have exemption, but  
29 if a country had no necessity for allowing ships  
30 of another country to have exemption, whether or not







1 they were familiar with the area, they should not  
2 do so as a matter of national policy.

3 COMMISSIONER SMITH: Excuse me, but  
4 before you pass on, I should like to get clear in  
5 my mind this particular point. I think you said  
6 that the traditional policy of maritime countries  
7 was that coasting vessels, and vessels on incidental  
8 voyages in their own country of registry were exempt  
9 from pilotage. It occurs to me that there has been  
10 some evidence adduced to the effect that in the  
11 United States a ship of U.S. registry engaged in  
12 the coastal trade has to have some kind of a  
13 federal pilotage certificate held by somebody on  
14 the ship when they are operating in certain specific  
15 waters. Is that correct?

16 MR. MAHONEY: This is correct,  
17 Commissioner Smith. I had not actually intended to  
18 deal with that point, but I can do so.

19 The United States, as is so often the  
20 case, has adopted quite a different attitude and  
21 policy towards this aspect of maritime commerce  
C3 22 than almost any other country. In setting up  
23 their system, particularly with respect to the  
24 Great Lakes, they followed the system -- and I am  
25 certain this is in evidence before the Commission  
26 somewhere -- that the masters and officers of those  
27 ships would not be required to sit for a certificate  
28 as a master or as an officer, as our masters do,  
29 but rather a certificate to obtain a pilot's licence,  
30 and the qualifications for that pilot's licence include





1 mostly all the other qualifications that a master's  
2 ticket involves. But, it would enable the American  
3 Government, first of all, to satisfy the requirement  
4 of having someone called a pilot on board the ship,  
5 and it also enabled them to restrict the area in  
6 which that officer could navigate his vessel. This  
7 is in contrast to the rather broad way in which we  
8 differentiate, and in which most other nations  
9 differentiate, between an inland voyage and a home  
10 trade voyage or a foreign-going voyage with the  
11 appropriate certificates for each type of voyage.

12 I believe that is the answer to the  
13 question which you raised, sir; that this require-  
14 ment does exist in American law, and this has been  
15 the answer to it. It is another way, I suppose, of  
16 saying that a coasting ship, providing it has a  
17 man on board with a pilot's licence, is exempt.  
18 Because of their law it must have that man on board  
19 and, therefore, it is exempt from pilotage because  
20 it has him on board. They cover the whole thing,  
21 firstly, by creating the exemption if the man is  
22 on board and, secondly, by setting up the qualifications  
23 of the officers navigating the ship in such a way  
24 that they will have the qualification for exemption.

25 It is a rather round-about way of  
26 doing the same thing, but then, perhaps, it is  
27 no more round-about than establishing a tonnage  
28 limitation which, as a practical matter, ensures  
29 that the ships that you want to have exempt have  
30 exemption, and which also prevents ships which would







1 otherwise have the exemption from obtaining it.  
2 These things in the past have often been done in  
3 a round-about manner.

4 COMMISSIONER SMITH: Do I understand  
5 you to say that it is sort of dual in its applic-  
6 ation, because before the master can be properly  
7 certified, or before the class of ticket he is  
8 applying for can be issued, he must qualify both  
9 as to the laws of the sea with regard to his profession  
10 and also the laws of pilotage, which are more or  
11 less incidental to us ---

12 MR. MAHONEY: That is right, sir.  
13 He is given, on the Great Lakes, for example -- and  
14 I do not think I am giving evidence because I  
15 believe this is in evidence -- he is given, as well  
16 as the usual examination with respect to competency,  
17 an examination as to his local knowledge of a  
18 particular area, and when he receives his master's  
19 ticket, which is at the same time a pilot's licence,  
20 it is geographically restricted to the area where  
21 he has shown his local knowledge.

22 This is quite a different system  
23 from the system that has been in use in Canada and  
24 in the United Kingdom and most other countries, but  
25 it is a system that works very well indeed, and  
26 has worked very well, for many years on the Great  
27 Lakes. I would not suggest, though, that it is a  
28 better system than the system we have because I  
29 think it is common knowledge that the masters and  
30 officers of these American lake ships are no more





1 knowledgeable of the geographical area in which they  
2 hold pilot's licences than the Canadian officers  
3 and masters who have obtained their licences in a  
4 different fashion but who have the same local know-  
5 ledge.

6 Does that answer your question, sir?

7 COMMISSIONER SMITH: Yes, thank you.

8 MR. MAHONEY: Now, my friend, Mr.

9 Lalonde, raised the point with respect, I believe,  
10 to the German legislation; that there is a tonnage  
11 limitation there on the class of coasting vessel  
12 which is exempt from pilotage. I was very glad  
13 that he raised this point because by doing so, he  
14 admitted, if it needs admission -- which I submit  
15 it does not -- that in Germany as elsewhere the  
16 policy is that a ship familiar with the area -- a  
17 coasting ship -- has exemption from pilotage. I  
18 think it is also common knowledge that the coastal  
19 vessels -- the crew coastal vessels -- under those  
20 countries are of such size that they fit within  
21 the exempt category.

22 I would explain the German approach  
23 to the problem in exactly the same way as the  
24 Canadian approach of the '20's and the '30's. They  
25 wish to grant exemption to a coastal vessel but  
26 legislatively they must prevent, for reasons of  
27 safety and efficiency all ocean ships of the same  
28 flag from obtaining this exemption because, as a  
29 practical matter, they are not so familiar with the  
30 area. They adopted the same procedure which was





1 adopted in this country and many other areas of the  
2 world of a tonnage limitation which recognizes that  
3 only the ships which should be exempt are, in fact,  
4 exempt.

5                   However, my lord and members of the  
6 Commission, unfortunately in this country we have  
7 quite a different problem. Our problem was similar  
8 to that of all other maritime nations until the  
9 building of the St. Lawrence Seaway. On the build-  
10 ing of the St. Lawrence Seaway, the size of the  
C4 11 coasting vessels was increased enormously. Therefore,  
12 I submit, with respect, the tonnage limitation which  
13 heretofore satisfied the practical matters, and which  
14 still in Germany and in other countries satisfies  
15 the practical aspect of this, no longer satisfies  
16 the practical aspect in Canada, and particularly  
17 on the St. Lawrence River, because the ships which  
18 are now engaged in those coasting voyages, in  
19 many cases with the same crews as operated on the  
20 small canallers, as has been given in evidence --  
21 the same type of ship with the same personnel and  
22 the same local knowledge must now carry a pilot  
23 because it cannot fit within the tonnage limitation.

24                   I submit, with respect, that we  
25 must now find a different solution to this problem  
26 -- something other than a tonnage limitation -- which  
27 will allow us to revert to the traditional view  
28 of exemption, which is that a coasting ship with  
29 local knowledge should have that exemption.

30                   COMMISSIONER SMITH: Irrespective of







1 tonnage?

2 MR. MAHONEY: Yes, irrespective of  
3 tonnage.

4 Now, as I have said, the first reason  
5 why such exemption should be given is the traditional  
6 reason, and the reason which has been recognized in  
7 past legislation, and which, indeed, is still  
8 recognized elsewhere in the world in present legis-  
9 lation. The second reason is that the trade in  
10 which these ships are engaged on the Great Lakes  
11 and the areas in which they navigate are very similar,  
12 and the experience gained in the one is all that is  
13 really required in the other.

14 Now, a number of witnesses before  
C5 15 the Commission, particularly government officials,  
16 were asked questions designed to show the similarity  
17 of the area below Montreal with the area above  
18 Montreal, including the whole of the Great Lakes.  
19 I would refer the Commission to the evidence of  
20 Mr. Land, the chief of the Ship Channel Branch.  
21 I should like to read to the Commission a part  
22 of the cross-examination of Mr. Land by myself  
23 which referred to this particular comparison. This  
24 is contained in Volume 41A of the transcript, begin-  
25 ning at page 4704.

26 At that time I asked the following  
27 questions:

28 "Q. Mr. Land, I have only one or  
29 two questions. When you were being  
30 examined by Mr. Lalonde yesterday, he





1 "mentioned the area of the St. Lawrence  
2 River between Montreal and Kingston  
3 which comes within your responsibility  
4 as head of the Ship Channel, and I  
5 recall that you considered the similar-  
6 ities or differences between conditions  
7 on the non-channel part of the Seaway  
8 and the ship channel below Montreal  
9 and particularly with reference to the  
10 height of the banks I think you said  
11 that the height of the banks was ---  
12 that the banks were quite high in the  
13 Seaway between Montreal and Kingston.  
14 Is that right?

15 "A. In certain areas, yes. At the  
16 lower end of Lake St. Louis, for  
17 example, the banks are very high.  
18 In the centre of the lake, there are  
19 lower banks.

20 "Q. And I suppose that in the Seaway  
21 many of these banks, and I think you  
22 noted, were built in the dry, so to  
23 speak, and are solid rock, or at least  
24 shale -- they are not mud banks?

25 "A. True.

26 "Q. Whereas below Montreal you would  
27 be more inclined to find mud banks,  
28 rather than rock-cut; is that correct?

29 "A. On the whole, yes, below Montreal.  
30 But there are areas, for instance, Cap







1 "a la Roche curve and Cap Charles channel  
2 where the rock is very near the surface,  
3 or at least near the bottom of the river.

4 "Q. And this would be similar to the  
5 rock cuts in the Seaway?

6 "A. Very similar, yes.

7 "Q. And as to the width of the channel,  
8 I think that you noted that the channel  
9 widths in the Seaway between Montreal  
10 and Kingston run between 450 feet and  
11 up to ---

12 "A. --- 600, excepting for the areas  
13 where the channel merges into the  
14 channel entrance."

15 I believe that should read " --- the  
16 canal entrance."

17 "Q. Where it narrows?

18 "A. Yes.

19 "Q. And this would be even narrower  
20 than the narrowest limits of the ship  
21 channel below Montreal?

22 "A. Definitely so, yes.

23 "Q. Also, Mr. Land, with regard to  
24 the depth of water available, there  
25 is no substantial difference there,  
26 is there?

27 "A. Well, there is a little greater  
28 margin in the Seaway. The designed  
29 grade has a wider margin -- that is  
30 the advertised grade -- than is the case





1 "below Montreal.

2 "Q. You also had reference to anchorages  
3 in the area below Montreal and I think  
4 you went through them and noted that  
5 they were about 30 miles apart, the  
6 designed anchorages -- dredged anchor-  
7 ages; is that correct?

8 "A. Approximately.

9 "Q. Approximately. And is this  
10 situation similar in the Seaway between  
11 Montreal and Kingston?

12 "A. There I think the anchorages would  
13 be a little closer in the Seaway.

14 "Q. I realize, Mr. Land, that as you  
15 pointed out yesterday, you are not an  
16 expert in navigation, but from your  
17 point of view as head of the Ship  
18 Channel and as an engineer, familiar  
19 with hydraulics, would you say that  
20 the difficulties of navigation are  
21 similar in the Seaway, between Montreal  
22 and Kingston, and in the Ship Channel  
23 below Montreal, going not down into  
24 tidal waters, but in non-tidal waters?

25 "A. There is this difference, that  
26 in the Seaway we have a controlled or  
27 regulated depth; whereas, below Montreal  
28 there isn't the control to the same  
29 point. The flow in the St. Lawrence  
30 River upstream is regulated, but the





1 "depth in Montreal and downstream from  
2 Montreal depend also on supply from  
3 the Ottawa River, which is not regulated  
4 to the same extent.

5 "Q. But aside from this point, the  
6 facts of the navigation are similar?

7 "A. They are similar, yes, in the  
8 non-tidal areas.

9 "Q. If not perhaps more difficult  
10 in the Seaway than in the river below  
11 Montreal?

12 "A. In the river below Montreal you  
13 are probably more affected by wind  
14 conditions because of wider stretches."

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1 Q. But you do have situations of current  
2 in both areas?

3 A. Yes.

4 Q. The situation is decidedly similar?

5 A. Yes..."

6 I must apologize for going on at such length from the  
7 transcript, but I believe that this illustrates my  
8 point better than I could myself.

9 "Q. Mr. Land, I know that in your official  
10 capacity this would not be so, but are you  
11 generally familiar with the areas on the Upper  
12 Lakes, such as the Detroit River, the St. Clair  
13 River, as to their topographical features,  
14 compared with the Seaway or the ship channel?

15 A. Not from actual experience -- only from  
16 a study of charts.

17 Q. From that study and from your general  
18 knowledge, would you say that conditions in  
19 these areas were similar to the Seaway between  
20 Montreal and Kingston?

21 A. They would appear to be a little more  
22 restricted; I mean, there is less room to  
23 maneuver.

24 Q. Even more restricted?

25 A. Yes. I would say so, from my look at  
26 the charts."

27 Now, My Lord and members of the Commission,  
28 I would submit that this witness is a recognized expert,  
29 not with respect to navigation particularly -- Mr.  
30 Land is not a navigator, I know -- but with respect to





1 the hazards which are met by vessels in a particular  
2 area, with hydraulics and with the state of nature as  
3 it has been affected by changes in channels, and this  
4 witness felt as, indeed, I believe other witnesses felt,  
5 that if there was any real difference between the area  
6 above Montreal and the area below Montreal, or the area  
7 above Montreal and the Great Lakes area, and in the  
8 connecting channels in general, that navigation is even  
9 more restricted, that there is even less room to  
10 maneuver; and in the evidence adduced by the Association  
11 before the Commission with respect to the work of the  
12 Association's Navigation Committee, I submit that we  
13 have indicated how over a period of many years the  
14 navigational facilities of the Great Lakes in particular  
15 -- although what I am saying extends right down to the  
16 Gulf of St. Lawrence -- these navigational aids and  
17 improvements in channels and in facilities for  
18 navigation generally have been matters which have been  
19 suggested by the ships' masters and ships' officers  
20 themselves.

21 There is, I submit, of common knowledge,  
22 very safe navigation on the Great Lakes, and I would  
23 submit that the evidence which we adduced with respect  
24 to the work of the Association's Navigation Committee  
25 indicates that the credit for that safety of navigation  
26 and the improvements which have been made rests solely  
27 with the ships' masters themselves. I should add,  
28 although this is not in evidence -- I don't think my  
29 friend will object -- that the Navigation Committee  
30 of Dominion Marine Association has not been alone in







1 this. The Ships Masters Association has a similar  
2 committee which meets each year and does the same sort  
3 of work.

4 There is very little cooperation between  
5 the two committees, but they have the same sort of  
6 results. So that this is not a question of the  
7 Association attempting to take credit for an improvement.  
8 This is an improvement which has been brought about by  
9 the sound common sense and suggestions of the people who  
10 actually use the area; and the recommendations which  
11 have been made cover not only the Great Lakes area but  
12 also the area below Montreal right down to the Gulf of  
13 St. Lawrence and, indeed, further; and I believe that  
14 it was brought out in evidence that the Committee had  
15 at times even considered the possibility of interesting  
16 themselves in the lower St. Lawrence River and in the  
17 Gulf; and I feel that all of that evidence leads  
18 inevitably to the conclusion that there is an inbred  
19 familiarity on the part of domestic ships' officers  
20 with the navigation of the St. Lawrence River as well  
21 as with the Great Lakes; that, in fact, there has been  
22 a constant effort on the part of these ships' officers,  
23 extending over a period of many years, to improve  
24 navigation in the lower St. Lawrence as well as in the  
25 Great Lakes.

26 I cannot help raising again the point  
27 which I made earlier, that a number of government  
28 officials had been asked whether pilot organizations  
29 had made formal representations, whether meetings had  
30 been held with them to discuss aids to navigation, or





1 particular matters over a period of years, and no  
2 such effort had been made; whereas the long history of the  
3 Navigation Committee is sufficient evidence in itself  
4 of its concern with these matters extending back for  
5 as long as 50 or 60 years.

6 I feel also that the evidence of such  
7 persons as Mr. Land and, indeed, the evidence of  
8 Captain Bodensieck and Captain Tifford as well is  
9 to the effect that the channels and the navigation  
10 of the lower St. Lawrence is, relatively speaking,  
11 the same as the navigation on the Great Lakes,  
12 particularly in its connecting channels.

13 Thirdly, it has been the contention of  
14 the Association that the officers of lake ships are  
15 competent to navigate in the areas below Montreal  
16 because of their experience. If this experience had  
17 extended only over the period of five years when, at  
18 least, in larger <sup>ships</sup> ~~it~~ has been necessary to carry a  
19 pilot, it might be possible for the pilots to question  
20 this experience, but it is an experience which goes  
21 back for many years.

22 Captain Bodensieck, for example, offered  
23 evidence with respect to this question and his own  
24 experience in the area below Montreal and stated the  
25 policy of his company in ensuring that the ships'  
26 officers do know the area; and he stated, as I recall,  
27 that many years ago part of his duties had been to act  
28 as a sailing master on ships where the particular  
29 master was not conversant with the area below Montreal.

30 So there is evidence, I suggest, which





1 supports the fact that there is a considerable background  
2 of experience on the part of lakeships' officers in the  
3 area below Montreal.

4 Evidence was also given with respect  
5 to the Laying up of the canal type of ship after the  
6 opening of the Seaway, extending over a period of some  
7 2 or 3 years, when all or many of the smaller ships,  
8 particularly the older ones, were taken out of commission,  
9 and there was evidence with respect to what had happened  
10 to these crews, particularly officers; how, in some  
11 cases, they became pilots and in other cases they were  
12 transferred to vessels where the experience was not so  
13 great, where people had not spent so much time in the  
14 area.

15 So that all these things have developed  
16 a background of experience of local conditions, and  
17 this, taken into consideration along with the natural  
18 similarity of the two areas, along with the similarity  
19 of trade in the two areas, means that there is a very  
20 substantial knowledge of local conditions on the part  
21 of the ships' masters and ships' officers of these  
22 vessels.

23 Finally, with respect to this matter, I  
24 would submit that the communications have reached a  
25 stage, particularly on the Great Lakes, with the  
26 equipment which is carried, that these vessels can be  
27 brought up to date very quickly with respect to any  
28 sudden changes which take place in local conditions.

29 Now, I must agree that a great deal of  
30 evidence was given with respect to the inadequacy of







1 communications, particularly around the Quebec area,  
2 and that was quite true; but I think also that evidence  
3 was given as to speed with which local notices to  
4 shipping, as opposed to notices to mariners (which take  
5 a much longer time) are produced when any event occurs  
6 with requires their production; how these are circulated  
7 and how they are made available at very short notice to  
8 the ships; and I would submit with respect that the  
9 evidence indicates to me, and should indicate to this  
10 Commission, that these changes and the notice of these  
11 changes are available to the lakeship as rapidly as  
12 they are available to the pilots.

13 I do not say that this would be so in  
14 the case of ocean-going ships, particularly the ocean-  
15 going ships coming from abroad, but it is the case with  
16 respect to the lakeships because of the local area in  
17 which they are operating and the numerous possibilities  
18 for ensuring that that information is given to them,  
19 for example, in the Seaway and at other places.

20 Well, now, in his argument Mr. Lalonde  
21 stated in general terms that the Dominion Marine  
22 Association was recommending what amounted to wholesale  
23 exemption of domestic ships. This is not really so.  
24 All the evidence which we have adduced before the  
25 Commission has been designed to show, as honestly as  
26 possible, what would happen if exemptions were given,  
27 and the Association has never said that exemptions  
28 should be given wholesale. It has been given in  
29 evidence that even if a blanket exemption were given the  
30 reaction of the lake shipping companies with regard to





1 that exemption would vary not only from ship to ship  
2 but also from area to area; and I submit that the  
3 witnesses who were called to give evidence with respect  
4 to this point -- Captain Bodensieck of Quebec, Captain  
5 Tessier, Captain Milne and Mr. Collison of Quebec and  
6 Ontario Transport Company all gave evidence with regard  
7 to what percentage of ships would use pilots in certain  
8 areas, and described how even this would vary over a  
9 period of years until you had arrived at the ultimate  
10 situation where the necessity for pilotage for lakeships  
11 would disappear almost altogether, but only after a  
12 very long period of time, and, in some cases, never.

13 I submit that this is most useful evidence  
14 from several points of view: Firstly, because it  
15 shows that one of the fears which the pilots had --  
16 although they have not expressed it directly in their  
17 brief, and they have really denied it as being a factor  
18 at all -- and I submit that this is an incorrect approach  
19 on their part; they should not deny it because it is  
20 a valid point -- that is, their fear that their revenue  
21 will disappear or will be drastically reduced if the  
22 lakeships are exempt. On the other hand, the evidence  
23 which has been given indicates that there would be a  
24 moratorium, so to speak -- a period of many years,  
25 actually -- before the revenue would disappear from  
26 lakeships, and, in fact, it probably would never  
27 disappear.

28 During this time there would be a gradual  
29 reduction in revenue from lakeships, which, I submit,  
30 would be counter-balanced by the increase in the number







1 of ocean ships, if we accept the evidence which has been  
2 presented as to the continuing trend towards more  
3 and more traffic in the St. Lawrence.

4 AS I have said, although this point has not  
5 been expressed by the pilots in their brief, or by  
6 counsel for the pilots -- this fear of a reduction of  
7 revenue -- I am certain that the pilots would not deny  
8 that it exists, because it would be unreasonable on  
9 their part to deny that it exists; it is a natural  
10 feeling on the part of anyone. Frankly, I can't see  
11 why it has not been stated as such. There would be  
12 no objection to it being stated. It is something  
13 which requires an answer, and it is very definitely  
14 something which this Commission must examine, whether  
15 it has been stated as a problem or not.

16 If the Commission seriously considers the  
17 question of exemptions the Commission must also consider  
18 the consequences from the financial point of view.  
19 I think for this reason it should have been mentioned,  
20 and I feel that for that same reason I must argue the  
21 answer to it, as I have done, that this would not take  
22 place over a short period of time but would take place  
23 over a long period of time.

24 Secondly, with regard to the question of  
25 wholesale exemptions, the Association has followed up  
26 its evidence with respect to the period of time which  
27 would elapse and how many ships, what percentage of ships,  
28 would take pilots during that period, by recommending that  
29 if exemptions are given a reasonable system be worked  
30 out for the grading of such exemptions and that the





1 system can be adjusted to fit the realities of the  
2 situation; that is, the number of ships which will  
3 require exemption and which can handle exemption; and  
4 the logical way to do this, as the Association have  
5 recommended, is on the basis of the number of trips  
6 per season by the masters or officers of the particular  
7 ships involved. I think that no more need be said  
8 with respect to this particular point. This is  
9 something which the Association would be prepared to  
10 accept, which the Association would welcome and which  
11 the industry would welcome, providing that such  
12 requirements were set up on a reasonable basis; and  
13 I think that this is a reasonable condition to ask  
14 with respect to such a matter.

15 It is simple enough to visualize, I think,  
16 that anyone could be prevented from obtaining such a  
17 certificate by unreasonable restrictions or by un-  
18 reasonable examination. I have no doubt as to the  
19 experience or acknowledged competence of the majority  
20 of the pilots, and I think that excellent evidence  
21 with regard to that can be inferred with respect to that  
22 from the evidence of such persons as Captain Dussault --  
23 even such pilots could be given an examination on the  
24 river which would prevent there getting a pilot's  
25 certificate.

26 Anyone can be prevented from doing something  
27 if that is the intention. I think it would be very  
28 difficult with Captain Dussault! But with respect to  
29 Captain Dussault's evidence, I think that it should  
30 be pointed out that, while he gave a most impressive





1 performance with respect to his ability as a pilot  
2 and the difficulties of pilotage in the area in which  
3 he is a pilot, the most that can be said for it,  
4 the most that can be inferred from Captain Dussault's  
5 evidence, is that Captain Dussault is an extremely  
6 competent pilot -- and I don't think anyone questions  
7 that -- but what can not be drawn from his evidence  
8 is that because Captain Dussault is an extremely  
9 competent pilot all the other pilots are extremely  
10 competent; this inference cannot be drawn.

11 I would not want it to be said or felt that  
12 I am suggesting that the pilots are not competent,  
13 because I feel that it is undeniable that the vast  
14 majority of pilots in all of these districts are  
15 extremely competent in their profession, and I shall  
16 have more to say about this particular point at a  
17 later stage.

18 I would only add respectfully at this  
19 point that while I, and, I think, anyone in the shipping  
20 industry is quite prepared to admit the competent of  
21 the pilots, I feel that the pilots should perhaps be a  
22 little bit more willing to admit the competence of  
23 other people.

24 Now, another objection which Mr. Lalonde  
25 raised with respect to pilotage exemptions was that  
26 there had been evidence adduced before the Commission  
27 that even certain executives of private industry felt  
28 that there should be compulsory pilotage and recognized  
29 the need for compulsory pilotage, and there was the  
30 evidence, as I recall, of the local manager, one of







1 the industrial managers, at Baie Comeau, I think it was,  
2 where it was brought out in evidence that this situation  
3 exists -- the situation of compulsory pilotage imposed  
4 by the private industry which is in control of this  
5 port; it exists in such places as Baie Comeau, Fort  
6 Cartier and Seven Islands -- those three areas in  
7 particular.

8 Now, on the other side of the coin I would  
9 point out the evidence of Captain Milne who was cross-  
10 examined, I believe, by Mr. Jacques with regard to the  
11 need for a pilot or docking master as he is called at  
12 Seven Islands, and Captain Milne in reply said that  
13 the masters did not allow the docking master to actually  
14 dock the ship.

15 I might refer to that particular evidence  
16 which is contained in volume 126 of the transcript at  
17 page 16119, in the cross-examination by Mr. Jacques.

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HG/rps

1 I'm sorry, my lord, that is another  
2 point. My friend says he did not change my page!  
3 I can return to that particular point at a later  
4 stage, but my recollection of it is that Mr. Jacques  
5 asked Captain Milne if his masters used docking  
6 masters in order to dock the ship in that area, and  
7 he said, no, that they would not use someone, that  
8 they are expected to handle their own ships. The  
9 inference which is drawn from Captain Milne's evid-  
10 ence on this point is that the docking master is  
11 allowed on board because it is a requirement of the  
12 company which controls the dock. That company also  
13 makes a blanket charge to cover their compulsory  
14 pilotage. They are used on a tug and one or two  
15 other matters, and this is something the shipping  
16 company has to pay whether it wants to or not. But  
17 I think the evidence of Captain Milne is clear that,  
18 simply because they have to pay, it does not mean  
19 they will entrust \$6 million worth or \$7 million worth  
20 into the hands of someone they do not know and  
21 possibly do not trust, although I make no particular  
22 allegation with reference to any person. They  
23 expect their own masters to handle the ship for  
24 which they are responsible, and the masters expect  
25 to do it.

26 I think the inference which is drawn  
27 from this evidence is not, necessarily, that the  
28 business executive feels that the pilot is necessary  
29 for safety or efficiency, because in actual fact  
30 the pilot, in many cases, is not being used, but it







1 could well be there is profit to be derived from the  
2 provision of the blanket coverage, including tug,  
3 pilot and anything else which may come into it.  
4 I think, perhaps, the Commission may draw its own  
5 conclusions with respect to this, because I think  
6 confidential evidence was submitted by the companies  
7 involved in that area with respect to the amount  
8 of money, the salary which they pay these docking  
9 masters. The Commission may draw its own conclusion  
10 from the comparison of that sort of evidence.

11 However, the fact is that officials  
12 of shipping companies will not or are most reluctant  
13 to trust the handling of a multi-million-dollar ship  
14 into the hands of someone over whom they have no  
15 supervision, concerning whom they have no real know-  
16 ledge, where they have no control of the training  
17 of that man.

18 It might be inferred from my friend  
19 Mr. Lalonde's argument that shipping companies are  
20 operating old, battered ships and are trying to  
21 cut every cost and are, therefore, trying to obtain  
22 exemptions from pilotage.

23 I think the evidence is just the  
24 reverse. The evidence has been given as to the  
25 current composition of the Canadian lake fleet. It  
26 is obvious from the newness of these ships and from  
27 common knowledge of costs today that these are  
28 multi-million-dollar items of equipment. It is  
29 also evidenced from the evidence of such as Captain  
30 Bodensieck that if they feel, in particular circum-





1 stances, a ship needs a pilot, they will not question  
2 the master's use of that pilot; but, at the same  
3 time, they are going to exercise every control they  
4 can over the person who handles that ship, whether  
5 it be their own master or a pilot from ashore, and  
6 they are not going to risk either the safety of  
7 navigation or a ship of that magnitude by asking  
8 for exemption if they do not sincerely feel, firstly,  
9 that that exemption is justified and, secondly, that  
10 their ship will be in safer hands with the exemption  
11 because it will be in the hands of people who know  
12 it, who are trained in its use, and over whom they  
13 have some control, and who are familiar with the  
14 day-to-day workings of that ship.

15 In my friend's argument, he pointed  
16 out that the two major considerations in this question  
17 of pilotage are, firstly, safety and, secondly,  
18 efficiency; and he noted -- and I agree wholeheartedly  
19 -- that in one area the question of safety might be  
20 uppermost, and in another area the question of  
21 efficiency might be uppermost. He attempted, however  
22 -- and with this I cannot agree -- to use this as  
23 an argument against the granting of exemptions to  
24 lake ships. He attempted to infer the granting  
25 of such exemption would delay navigation, at least.  
26 He noticeably avoided, I think, the safety argument,  
27 but he concentrated on the efficiency argument and  
28 the delays which might ensue if a large lake ship  
29 did not have a pilot.

30 With respect to that argument, I would





1 refer you to the evidence of Captain Milne -- my  
2 friend forgot to remove the marker for this page,  
3 so I can find it!

4 When cross-examined by Mr. Jacques --  
5 this was with reference to a number of occasions  
6 when Captain Milne said that due to the stress of  
7 weather his ships had not been able to pick up the  
8 pilot at Escoumains and had continued on their  
9 voyage without the pilot.

10 With reference to that, my friend  
11 Mr. Jacques asked what the weather conditions were,  
12 whether they were due to fog, and his answer was  
13 they were due to rough weather.

14 My friend Mr. Jacques then asked the  
15 question on page 16119, Volume 126:

16 "Q. Did you, as administrator of  
17 your company, note any difference in  
18 time taken for the passage with and  
19 without pilots?

20 "A. No, sir, no difference.

21 "Q. No difference?

22 "A. No.

23 "Q. The same time?

24 "A. Yes."

E2 25 Mr. Jacques really tied it down.

26 "Q. In your experience as a seaman,  
27 would you consider a passage from  
28 Escoumains to Quebec more or less  
29 difficult in bad weather than in  
30 good weather?







1 "A. Well, if it is bad weather,  
2 if you have foggy weather or snow,  
3 it is always more difficult.

4 "Q. Apart from fog and snow?

5 "A. No.

6 "Q. It would be the same?

7 "A. I would think so."

8 I notice just after that the reference  
9 I was looking for before, my lord, with respect to  
10 Seven Islands. I think we have covered that point,  
11 however, and I will merely note it is on page 16120.

12 This is only one example; this is only  
13 one company, but I think the evidence of that company  
14 is to the effect that whether there is a pilot on  
15 board or not, the familiarity of the ship's officers  
16 in that particular case, at least, with conditions  
17 on the river was such that the voyage could be made  
18 at the same time. In other words, there was no delay,  
19 either to the ship or any other ship.

20 I submit, with respect, that the point  
21 Mr. Lalonde has made with respect to ships being  
22 delayed because of the lack of a pilot is not  
23 justified, and no evidence has been offered in  
24 support of it.

25 My lord, I propose now to go on to  
26 another point, and I note the time is twelve-thirty.

27 THE CHAIRMAN: We will go up to  
28 one o'clock, unless you wish otherwise.

29 MR. MAHONEY: That is fine with me,  
30 my lord.





1 My lord, even though the Dominion  
2 Marine Association is primarily interested at this  
3 stage in obtaining a reasonable form of exemption  
4 for lake ships, the Association and the industry  
5 continue to have a strong interest in the admin-  
6 istration of pilotage. Their interest is strong  
7 because of the point which we have made, that it  
8 will be a considerable period of time, even with  
9 exemptions, before lake ships completely dispense  
10 with the use of the pilot. The pilot is useful to  
11 the lake ship in certain areas because of the simple  
12 limitations with respect to the crew itself. It is  
13 not a practical possibility to carry such a large  
14 number of officers, that relief is available at all  
15 times. These ships are engaged in a trade where they  
16 are constantly in pilotage waters, and, therefore,  
17 in certain areas, and specifically, for example,  
18 in the Montreal District, a pilot would be used  
19 because at either end of that District, the master  
20 and the first mate, the two senior officers, on the  
21 ship have just passed through an extensive pilotage  
22 area; that is, a pilotage area where they have  
23 piloted themselves. That is above Montreal and  
24 below Quebec. For that reason, it is useful  
25 administratively to have a pilot for most ships, for  
26 90% of ships, in the Montreal District.

27 In the other districts there is less  
28 need. I think it is generally agreed, and certainly  
29 among the witnesses who were called for the Assoc-  
30 iation, that in their opinion there is little need for







1 a pilot in the Quebec District, with the exception  
2 of ships which may not be so familiar with the area  
3 which are trading more or less constantly above  
4 Montreal, but which occasionally make trips to the  
5 area. So the need for pilots for lake vessels will  
6 vary from district to district and, possibly, even  
7 from season to season. But because that need is  
8 still there, the interest of the Association in the  
9 questions of administration is very real; and with  
10 regard to the recommendations respecting administra-  
11 tion I think it is clear by now that the Dominion  
12 Marine Association agree with the pilots and with  
13 the Shipping Federation, that pilotage should not  
14 be administered directly through the Department of  
15 Transport. I think it is evident that they feel  
16 it should not be administered directly through any  
17 government department, but only indirectly by the  
18 Government through a commission.

19 With respect to this point I would  
20 say that the reasons of the Dominion Marine Assoc-  
21 iation for saying this may not be quite the same  
22 reasons why it is said by the pilots. As I mentioned  
23 earlier, I do not agree that the officials of the  
24 Department of Transport were nearly so lax or  
25 incompetent or whatever term Mr. Lalonde wants to  
26 use, as has been made out. I believe that within  
27 the limitations of their task they did an able job.

28 I still feel, however, that pilotage  
29 should not be administered by the Department of  
30 Transport because of the political implications of





1 the administration of pilotage directly by any govern-  
2 ment department. And when I say the "political  
3 implications" I mean that where pilotage is administer-  
4 ed by a government department, it is almost unavoi-  
5 dable that pressures will be exerted to influence  
6 the decision of officials and, indeed, of the  
7 Minister involved.

8 I should say, perhaps, it is not  
9 so much a question of influencing the officials  
10 as of frightening the officials with the possibilities  
11 of pressure; something which every civil servant has to  
12 be in great fear of.

13 At the political level it is, however.  
14 a question of direct pressure. I feel that no  
15 government official, whether elected or appointed,  
16 should be placed in this position. He should be  
17 protected from such pressures in a field such as  
18 pilotage, where the public interest is involved,  
19 because it is virtually impossible for him to make  
20 a decision which will be agreeable to all parties,  
21 and repercussions always follow from such a decision.

22 I make a point of this particular  
23 matter because it has been recommended by the pilots  
24 and supported by my friend Mr. Lalonde, or argued  
E3 25 by my friend Mr. Lalonde, that a greater degree of  
26 control over administration should be given to the  
27 pilots themselves, and that a commission should be  
28 appointed.

29 It has been stated that with regard  
30 to questions of tariff and pilots' income, these should





1 be decided by the Governor-in-Council. That is,  
2 the Commission or Commissioner is being divorced  
3 slightly from this important aspect of pilotage.

4 Now, I cannot agree that this would  
5 be a sound solution. The two most important elements  
6 in pilotage are the question of tariff and the  
7 question of pilots' income, and they are directly  
8 related, no matter what effort may be made -- and  
9 the Department of Transport did make some effort to  
10 try and separate these two by proposing target  
11 incomes and by other proposals -- but no matter  
12 what effort may be made, I think it is a distinct  
13 fact of life that these two are related, and if the  
14 Commission is able to recommend, and its recommend-  
15 ations are implemented, a system which will avoid  
16 most of the difficulties of the past but will still  
17 leave the question of tariff or pilots' income open  
18 to political decision, then it will have failed in  
19 its task because no matter what terminology one  
20 uses, these matters, in the final analysis, always  
21 boil down to a question of cost and revenue.

22 I would therefore submit that while  
23 we favour the idea of a commission, we feel that that  
24 commission should be given more power than is  
25 specified by counsel for the pilots. We do not feel  
26 that questions of tariff and income should be left  
27 to the Governor-in-Council, but should be decided,  
28 primarily, by the Commissioner.

29 There should, however, be an appeal  
30 from the ruling of the Commissioner. And here, I return







1 to the point which I made earlier, when I was consider-  
2 ing the question of the pilots' corporations, and  
3 whether or not they could be considered democratic  
4 institutions. I said at that time that all of these  
5 institutions must be subject to the rule of law; and  
6 I feel that we can never achieve a really satisfactory  
7 result in the field of pilotage, unless we are able  
8 to appeal for a final decision to law, to a body  
9 which can give a decision having the force of law.

10 Now, in the ordinary labour field,  
11 of course, this matter is covered by the Canadian  
12 Labour Relations Board with respect to federal  
13 matters, and I am not suggesting for a moment that  
14 in matters between shipowners and pilots recourse  
15 should be had to the Canadian Labour Relations Board,  
16 by any means. I merely say this is a precedent for  
17 the settling of disputes in the future; and that  
18 a similar system should be set up which gives a  
19 logical appeal, which can in certain cases even  
20 resort to appeals to courts for a final decision.  
21 I feel that if the parties know that there is recourse  
22 to such tribunals and that there is a final legal  
23 decision resulting, then this will avoid a great  
24 deal of difficulty.

25 If, on the other hand, they feel that  
26 the final decision is something which can be  
27 achieved by pressure, the other side may equally  
28 feel that even if it is a final decision it is not  
29 so final that it cannot be changed by pressure. This  
30 is one of the things we have had to live with, and





1 one of the difficulties which we have had is in  
2 arriving at decisions which everyone recognized as  
3 being final decisions.

4 I would submit, with respect, that  
5 unless there is a recognized judicial process for  
6 arriving at such a decision, the matter will always  
7 be swayed by political and economic pressures.

8 I have been speaking primarily with  
9 respect to the question of pilots' income when I  
10 suggest there must be recourse to some other judicial  
11 or semi-judicial tribunal.

12 With respect to the tariff, I feel  
13 also there must be recourse to some appeal body,  
14 that primarily this can be in the hands of the  
15 Commissioner or the Commission, but some appeal must  
16 be provided. Again, and for the same reasons that  
17 an appeal should not lie with the Minister or to  
18 the Governor-in-Council, it should be an appeal  
19 to a recognized tribunal which can be dealt with  
20 in accordance with legal and economic arguments.  
21 Undoubtedly, there is always going to be a relation-  
22 ship between the tariff and pilots' revenue, but I  
23 think that the two matters can be separated to that  
24 extent.

25 I agree with my friend Mr. Lalonde  
26 that the cost of pilotage must be borne by the users,  
27 but I agree with him also when he says that there  
28 are exceptions to this. There are areas which  
29 cannot support the cost of pilotage, areas which  
30 if left to natural supply and demand would either







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1 result in a pilot working for an extremely small  
2 income, or would result in no traffic into the  
3 particular area.

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1                               These areas probably will always have  
2   to have some subsidization, and I think that the  
3   pilots agree with this. It is not reasonable to  
4   expect one pilotage district to support the deficiencies  
5   of another pilotage district. If the cost of  
6   pilotage in one area of, say, heavy traffic is kept  
7   high in order to provide subsidization for an area  
8   with less traffic then that results in quite an  
9   unfair application of the rule that the user should  
10   pay the cost, because it is not necessarily the same  
11   user in both cases. If we could be sure of this  
12   the principle would be quite fair, but I think it  
13   is reasonable to suggest that the areas which might  
14   require some subsidization are in the maritime  
15   provinces, and particularly in some of the smaller  
16   ports, perhaps, and the traffic into those ports  
17   is not the same as that through a pilotage district  
18   such as the Quebec or the Montreal Pilotage District.  
19   So, it is too much to expect the full application  
20   of the system of the user paying the full cost.

21                            I think it would be perfectly possible  
22   to arrive at a distribution whereby the subsidization  
23   required from the Federal Government for such areas  
24   would not be any greater than the general subsidiz-  
25   ation of pilotage which is now in effect, because to  
26   a large extent now we are finding subsidization of  
27   pilotage even in what might be referred to as wealthy  
28   districts. So, some redistribution of this would  
29   probably result in a subsidy cost which would not  
30   be any greater than that which is presently being





1 carried by the Federal Government.

2 In the brief submitted by the Assoc-  
3 iation to the Commission, the possibility is raised  
4 of a Commission being appointed to act as Pilotage  
5 Authority, but it is also suggested that it might  
6 not be the best solution to create one Pilotage  
7 Commission for the whole of Canada. This is a  
8 suggestion which we still put to the Commission. The  
9 pilotage problems in Canada can be divided roughly  
10 into three parts -- the West Coast, the East Coast,  
11 and the Great Lakes and River. The pilotage problems  
12 in the Great Lakes and the Lower St. Lawrence River  
13 fall naturally into one category. The pilotage  
14 problems on the East Coast are more similar, but  
15 through the years the organization of pilotage in  
16 that area has taken a rather different track than  
17 has pilotage in the Great Lakes and the St. Lawrence  
18 River, and it is entirely possible that regulations  
19 passed by a commission, or used by a commission,  
20 with respect to the Great Lakes and St. Lawrence  
21 River would not properly apply to either the East  
22 Coast or the West Coast.

23 I see great advantage in the appoint-  
24 ment of a single pilotage commission as the Pilotage  
25 Authority, but I would suggest that in its terms  
26 of reference it might be necessary to differentiate  
27 between its functions in the three areas that I have  
28 named.

29 My friend, Mr. Lalonde, considered  
30 at great length in his argument the proposal which







1 had been put to the Commission that pilotage could  
2 be administered in certain local areas by such  
3 organizations as the National Harbours Board, or a  
4 local harbour commission, or by an organization such  
5 as the St. Lawrence Seaway Authority. Now, I think  
6 that Mr. Lalonde dealt with this question exhaustively,  
7 and I need do little more than say that I support  
8 what he said with respect to it.

9           The main objection which the Dominion  
10 Marine Association would have to such a pilotage  
11 setup would be that there would be a tendency for the  
12 revenues derived from pilotage to be lost in charges  
13 which are made for other services, and I think  
14 perhaps this is the main objection which the pilots  
15 themselves would have -- and quite justifiably so.  
16 But, I speak very frankly with regard to this  
17 particular problem. We have not had great success  
18 in the past in negotiating changes in tariff. The  
19 pilots, I think, feel the same way. However, we  
20 are not recommending the setting up of a system  
21 which would allow us even less scope to negotiate,  
22 because we would be talking about a tariff which  
23 would be completely submerged in other charges.

24           There is a further matter that I  
25 wish to examine very briefly, and that is the  
26 recommendation that has been made by the Dominion  
27 Marine Association with respect to differences in  
28 the national systems for the measurement of ships.

29           As we have pointed out, by reason of  
30 these differences we have found that the charges to





1 Canadian-registered ships are sometimes higher than  
2 the charges to an identical ship of another flag, and  
3 in particular an American ship. The charges with  
4 respect to an identical Canadian and American laker  
5 will differ because of the different measurement  
6 systems that are used by the two countries.

7 There has been, over the past several  
8 years, an effort to arrive at a universal system of  
9 tonnage measurement, but this effort appears to have  
10 been bogged down somewhere in diplomatic channels,  
11 and it does not appear that a solution will be  
12 arrived at in the foreseeable future.

13 Some evidence was presented before the  
14 Commission, as I recall it, in Quebec City to the  
15 effect that with respect to ships of certain countries  
16 surcharges are sometimes added by government depart-  
17 ments to adjust for the difference between Canadian  
18 and foreign-flag ships. I would suggest, with  
19 respect, that in the recommendations which the  
20 Commission may make with respect to pilotage tariff  
21 that this possibility be borne in mind -- not that  
22 a tariff be set up, and a lake ship using a pilot  
23 pay a lower tariff, but that a surcharge be applied  
24 to other vessels, which would equalize the situation.

25 My lord, I should like to go on to  
26 another point, but as the time is almost one o'clock  
27 perhaps we should adjourn until after lunch.

28 THE CHAIRMAN: Yes, we shall adjourn  
29 now until this afternoon at two-thirty.

30 --- Luncheon adjournment.







1  
2 --- On resuming at 2.30 p.m.

3  
4 MR. MAHONEY: My Lord and members of  
5 the Commission, I have only one or two more points  
6 which I would wish to draw to your attention before  
7 concluding. The first of these is with regard  
8 to an objection which was raised by my friend, Mr.  
9 Lalonde, to exemptions for lake vessels, and he stated  
10 that in his opinion, if such exemptions were created,  
11 in effect a secondary pilotage system -- a private  
12 system -- would develop; and I believe he related his  
13 argument with respect to this to a number of incidents  
14 which have arisen primarily with American ships; and,  
15 secondly, he related this to the use of relief officers  
16 and masters by the lake shipping companies.

17 Now, firstly, with respect to the use of  
18 relief officers, I believe that the Association has  
19 offered sufficient to show that this is not an attempt  
20 to avoid pilotage, and I think this evidence must be  
21 read in conjunction with the forecast which we made --  
22 which our witnesses made -- with respect to what would  
23 happen in the districts below Montreal if lakeships  
24 are exempted.

25 With respect to the problem of American  
26 lakeships, I think it should be drawn to the attention  
27 of the Commission that we are appearing on behalf of  
28 Canadian lakeships and have not said, nor do we say,  
29 that similar exemptions should be granted to American  
30





1 ships; and I refer back to the point which I made  
2 earlier in considering the position of exemptions  
3 as they have traditionally been had in Canada and  
4 throughout the maritime world, and nowhere is this  
5 privilege granted to ships of a foreign flag.

6 In the United States, or in the Great  
7 Lakes area, rather, we have a somewhat different  
8 problem because of the reciprocal arrangements between  
9 the two countries, and particularly the Boundary Waters  
10 Treaty of 1911; but I would point out that this Treaty  
11 affects the Great Lakes area only and does not extend  
12 to any area beyond Montreal. I would argue, in fact,  
13 that legally it does not extend beyond Messina, although  
14 my friend disputes this, I know, and he mentioned...  
15 --- at this stage Mr. Lalonde had a whispered consultation  
16 with Mr. Mahoney.

17 MR. MAHONEY: I find that my friend  
18 agrees with me. I thought he disputed it because  
19 he raised the point himself the other day with respect  
20 to an article, I think, in the "Bar Review." But I am  
21 still of the opinion -- and I am glad he agrees with  
22 me -- that this obligation of reciprocity does not  
23 extend beyond Messina, and although, in fact, certain  
24 reciprocal arrangements have been extended beyond there  
25 I think there is no legal obligation to do that;  
26 certainly not beyond Montreal.

27 The next point which I wish to consider  
28 for a moment is the recommendation made by the pilots  
29 with respect to the extension of compulsory pilotage  
30 to the Great Lakes area. This has been treated, I





1 might say, in rather a vague way. I propose to handle it  
2 in the same vague way and to say merely that a system  
3 has developed on the Great Lakes, through many years,  
4 which is respected and perhaps envied throughout the  
5 maritime world for its safety and efficiency. I do  
6 not believe that this system should be tampered with.  
7 I think it would be almost impossible to find reasons  
8 for tampering with it; and I would point out merely  
9 that nine out of ten at least of the pilots serving  
10 on the Great Lakes -- serving ocean ships on the Great  
11 Lakes -- were trained and served on lakeships.

12 The only other particular point which I  
13 wish to raise is with regard to a suggestion which we have  
14 considered earlier, and that is the right of pilots  
15 to take strike action. In my earlier comments I  
16 referred to strikes which have taken place and I said  
17 that I found it very difficult to see how the inherent  
18 right to strike could be taken away from the pilots  
19 even in view of their professional status, and I still  
20 believe that that is so.

21 With the right to strike generally there  
22 is the reciprocal right to lock out. The unfortunate  
23 part about this in the area which we are considering  
24 is that as a practical matter many of the shipowners  
25 could not exercise this reciprocal right of lock out.  
26 So far as Great Lake ships are concerned, of course,  
27 they could. The fact is that when strikes were  
28 threatened in the past -- it may sound like rather a  
29 selfish reason -- but most of the lake shipping companies  
30 welcomed such action because it simply proved their







1 point that they did not require pilots. With regard  
2 to the ocean ships, however, it is a much more serious  
3 matter. I believe, however, that the right to strike is  
4 not a matter which should cause the Commission a great  
5 deal of concern. I think that all emphasis should be  
6 placed on finding a system which has flexibility  
7 sufficient to solve the problems which may arise, along  
8 with a suitable method of appeal and ending with a  
9 decision or judgment which cannot be swayed by political  
10 issues of any kind. If such a system can be arranged  
11 I do not believe that whether the pilots have the right  
12 to strike or not really matters.

13 I believe that the pilots themselves and  
14 associations should be prepared in those circumstances,  
15 and would be prepared, to abide by the system without  
16 having recourse to the right to strike. That right  
17 could be worked into such regulations, but I do not  
18 believe that it would be really significant.

19 The question whether the pilots or any of  
20 the parties at interest would abide by decisions of a  
21 Commission or any other authority is a very important  
22 one. I feel, and respectfully suggest, that the  
23 decision-making power -- final decision-making power --  
24 should be so bound up that anyone would hesitate to  
25 take deliberate action against it. If it is not so  
26 bound up then I very much fear that action would be  
27 taken and the work of this Commission would be frustrated.

28 I say this with a great deal of regret,  
29 because this Commission has been sitting for over two  
30 years now, has heard a great deal of testimony, and most





1 of the major parties at interest have appeared before  
2 the Commission on so many occasions that we have come  
3 to know each other very much better than we did before  
4 this Commission was appointed; and that more intimate  
5 knowledge should have led to a far better understanding  
6 on the part of all of the parties to the problems  
7 which each has in its own sphere.

8 If that understanding had been reached,  
9 or, indeed, if it has been reached, then the task of  
10 the Commission will be much easier. I am not,  
11 unfortunately, convinced that it has been reached.  
12 I feel that there is still a great deal of hesitation  
13 on the part of the pilots -- and I say this with regret --  
14 to appreciate the viewpoints of the shipowner.

15 When my friend, Mr. Lalonde, commenced his  
16 argument the other day I followed it not only with  
17 interest but a great deal of pleasure because it  
18 appeared that there were so many points on which we  
19 agreed, and I think that the Commission can see both  
20 from what my friend, Mr. Brisset, has said and from  
21 what I have said that there are a great number of  
22 points upon which there is complete agreement, and this  
23 should make the task of the Commission easier;  
24 unfortunately, I feel that when it comes down to the  
25 final question, while we, as shipowners, are prepared to  
26 accept the competence of the pilots to do their task,  
27 are prepared to grant them the maximum freedom of  
28 control over their own affairs consistent with a system  
29 which will ensure satisfactory negotiation of problems --  
30 I feel, as I say, that the pilots are still not prepared





1 to reciprocate; and this would appear to be particularly  
2 true with respect to the question of exemptions.

3 This, unfortunately, is going to create  
4 a very serious problem for this Commission, because while  
5 all parties appear to be in agreement that there should  
6 be no future possibility of political pressure being  
7 applied to affect decisions, there is, as I say,  
8 unfortunately, still one opportunity for such political  
9 pressure, and the exercise of that opportunity might  
10 very well frustrate the sincere and worth while efforts  
11 of this Commission. This is a most regrettable thing  
12 because I feel that all of the parties, including the  
13 pilots, have come to a much clearer understanding of  
14 each other's problems.

15 I think it is the fact that this Commission  
16 now understands these problems as well as we do, but  
17 it is for all of the parties to examine their own  
18 position and do their utmost to reach this final stage  
19 of understanding so that the decisions of this Commission  
20 and the recommendations of this Commission, whatever  
21 they may be, can be implemented and the solution to  
22 problems which have bothered this industry and the  
23 pilots' organizations for many years can be solved,  
24 with a reasonable certainty that we will have a workable  
25 system for the future.

26 My Lord and Members of the Commission,  
27 that is the sum total of the Association's argument and  
28 comments with respect to the briefs submitted by the  
29 other parties.

30 I would like to add that along with the







1 understanding of the problems of the other parties  
2 appearing before this Commission during the past two  
3 years I feel that the various persons who have  
4 appeared and spoken before this Commission have come  
5 to a closer personal appreciation. This applies to  
6 the members and staff of the Commission as well as to  
7 the parties here. It has been a very pleasant  
8 relationship and I think this relationship will be  
9 of great assistance in helping the Commission to arrive  
10 at decisions which will set up a proper system for  
11 the future.

12 Thank you.

13 THE CHAIRMAN: Commissioner Smith has a  
14 few questions.

15 COMMISSIONER SMITH: I just have one or  
16 two questions, Mr. Mahoney, and I am reading here what  
17 I think you said about the multi-million dollar ships,  
18 and I want you to stop me and correct me if I am mis-  
19 quoting you in any way. This is what I took down:  
20 That the owners of the multi-million dollar ships don't  
21 trust placing in the hands of pilots, whose competence  
22 they question, the handling of these very expensive  
23 craft. Was that substantially what you said, or  
24 have I misquoted you?

25 MR. MAHONEY: Well, sir, to be honest  
26 I don't think I said it quite that bluntly. If I  
27 may put it another way: There is reluctance on the  
28 part of shipowners to entrust vessels of this class  
29 to people over whose training they have had no control.

30 This has been shown to be the case





1 particularly, perhaps, in ports rather than in the  
2 river districts.

3 I do not think that it should be taken  
4 from that that the shipowners deny the competence of the  
5 pilots, and I think I have tried to make that quite  
6 clear in my argument; that while there have been  
7 specific instances where damage has been done -- where  
8 there have been accidents, and, unfortunately, some  
9 tragic accidents -- the shipowners are certainly not  
10 saying that as a class they feel that the pilots are  
11 incompetent. They feel generally that the St. Lawrence  
12 pilots are a most competent body of men. We only  
13 regret that the St. Lawrence pilots do not appear to  
14 reciprocate this view so far as we are concerned.

15 COMMISSIONER SMITH: Of course, the reason  
16 I raise this issue is that if the statement was as I  
17 originally read I was going to say this, that doesn't  
18 it revert back to the authority which grants the  
19 licence and the certificate to make sure that the  
20 competence and qualifications of those whom the licences  
21 are granted are beyond any question?

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1 MR. MAHONEY: Well, sir, this raises  
2 a most interesting point which my friend Mr. Lalonde  
3 touched upon in his argument. He said at one stage  
4 that no one could guarantee the competence of the  
5 master of a ship to find his way through the pilotage  
6 district. He said, quite reasonably, that almost  
7 any ship, by being very careful and very slow, could  
8 pilot itself through a pilotage district, which is  
9 quite true, but that no one could guarantee there  
10 would be a master on board the ship sufficiently  
11 competent that he could pilot the vessel through  
12 with efficiency and safety.

13 Now, I agree with that, this is true,  
14 but it is equally true that no one can guarantee the  
15 competence of the pilot either. The fact you may  
16 examine the pilot, that you may take all sorts of  
17 steps to ensure that he is the most competent person  
18 available -- you still cannot guarantee that he  
19 will not have an accident, and you cannot guarantee  
20 that he will maintain his competence.

21 We are dealing, after all, with  
22 human nature and with human knowledge, and I feel  
23 that you can just as easily guarantee, for example,  
24 that the master of a lake vessel who has completed  
25 safely so many voyages during a year through a  
26 district will know that district as well as the  
27 pilot who is making a number of voyages at the same  
28 time.

29 COMMISSIONER SMITH: Thank you. There

30







1 is another point, on the measurement of ships, and  
2 you raised the question, on which some testimony was  
3 given here, that the Americans have a different  
4 formula for measurement than we have here.

5 The point I want to make about it  
6 is this: that with regard to certain other types of  
7 ships -- I think the Panamanian and Liberian and  
8 some others -- there was an Order-in-Council passed.  
9 I say "Order-in-Council," but I'm not sure whether  
10 it was an Order-in-Council or an amendment to The  
11 Canada Shipping Act. However, there was some  
12 authority given to upgrade the tonnage on certain  
13 classes of ships, although they are measured in  
14 accordance with the standards we go by here in this  
15 country. That, of course, did not apply to  
16 American ships, as I understand it.

17 MR. MAHONEY: That is correct. There  
18 has been evidence before the Commission, as you say,  
19 allowing for this. So far as I am aware, the  
20 specific ships which were named in the evidence were  
21 Panamanian. That is the only one I am certain of,  
22 but the American were not.

23 COMMISSIONER SMITH: I think Liberian  
24 as well, and there were several others, but I cannot  
25 remember them.

26 MR. MAHONEY: The Panamanian and  
27 Liberian systems of measurement are based on the  
28 American, and the American are not mentioned in that.

29 COMMISSIONER SMITH: For that reason, eh?

30 MR. MAHONEY: I don't know whether it





1 is for that reason.

2 COMMISSIONER SMITH: The standard is  
3 the same in America as it is in Panama and Liberia?

4 MR. MAHONEY: My understanding is that  
5 the Panamanian and Liberian systems of measurement  
6 are based on the American; whereas our system of  
7 measurement here is the same as the British system  
8 of measurement.

9 What I was suggesting was the surcharges  
10 which you mentioned should be used with respect to  
11 ships of those nationalities in calculating the  
12 pilotage tariff, to equalize the tariff with respect  
13 to all ships, including the American.

14 COMMISSIONER SMITH: I would like to  
15 say this, that it has been very refreshing to me  
16 and, I am sure, to everybody else, to listen to you  
17 and to Mr. Lalonde and Mr. Brisset, to hear that  
18 in your judgment, from the top down, the officials  
19 in Ottawa who are administering pilotage are men of  
20 integrity and honour, doing the job in a very  
21 competent way with regard to the administration  
22 of pilotage. It was the system rather than the  
23 individual or the personality that was to blame. I  
24 think that is a very fine thing to have on the  
25 record.

26 There is just one point about that  
27 that occurs to me, that it would not rule out the  
28 personalities with regard to the dealings as between  
29 the officials and the others connected with pilot-  
30 age, whether it be shipping or pilots or other





1 interests, the contacts, the way it is proposed to  
2 them, the dealings that are made with them, and the  
3 degree of lack of compromising on matters that should  
4 not be compromised on to too great an extent, but  
5 compromising in order to get settlement of difficult  
6 and serious but, nevertheless, important problems  
7 of pilotage.

8 I think it is very nice to know the  
9 way the counsel for those who have spoken so far have  
10 paid that compliment to those who are in authority  
11 here in Ottawa dealing with pilotage. I say that  
12 because those of us who have had some experience  
13 in the public service know how difficult jobs and  
14 decisions are at certain times with regard to matters  
15 where pressures of different kinds are brought to  
16 bear.

17 THE CHAIRMAN: Are there any further  
18 questions to Mr. Mahoney?

19 Thank you very much, Mr. Mahoney.

20 THE SECRETARY: My lord, I would  
21 suggest that we now hear the Deputy Minister of  
22 Transport, Mr. John Baldwin, who has come here this  
23 afternoon to address the Commission, not, of course,  
24 in the form of pleadings as counsel, but merely to  
25 draw to the attention of the Commission particular  
26 points that he might wish the Commission to give  
27 attention to.

28 After Mr. Baldwin has addressed the  
29 Commission and replied to any questions the Commission  
30 may wish to address to him, we will hear Mr. Lalonde







1 in reply to remarks made by counsel.

2 THE CHAIRMAN: I understand Mr. Lalonde  
3 has to be in Montreal tomorrow, so therefore we  
4 will hear him this afternoon.

5 THE SECRETARY: Then, if there is  
6 any time remaining after we have heard Mr. Baldwin  
7 and Mr. Lalonde, we will hear Mr. Duncan, who came  
8 from Moncton to represent the C.N.R.

9 THE CHAIRMAN: Mr. Baldwin, will you  
10 take the podium.

11 MR. J. BALDWIN (Deputy Minister of  
BB2 12 Transport): My lord, Commissioners, I offer you  
13 my thanks for the opportunity to appear before you  
14 this afternoon in the role of a witness whose  
15 pleading is, perhaps, a little different in its  
16 nature from that which you have heard previously,  
17 because I speak as a government official when I  
18 appear before you this afternoon.

19 I do not think there is any great  
20 difference between myself and a number of the other  
21 witnesses who have addressed you recently, in the  
22 sense that we all have recognized that, basically,  
23 some substantial improvements in the whole found-  
24 ation, the legal foundation, if you will, and  
25 framework for the administration of pilotage are  
26 highly desirable. We, in the Department, who have  
27 been responsible for advising the Pilotage Authority,  
28 the Minister, have been aware of them for quite a  
29 long time now, and it was because of our concern  
30 in this matter that we welcomed, indeed with great





1 joy, the appointment of the Royal Commission to look  
2 into this matter. We have been both grateful for  
3 and impressed by the patient, persistent and exhaust-  
4 ive manner in which you have examined this problem.  
5 Indeed, we believe that we owe you and the members  
6 of the Commission staff and also those who have  
7 participated so actively and with such sincerity in  
8 the proceedings of the Commission, a great debt of  
9 gratitude for the undertaking of this work and for  
10 the efforts that have been put forward.

11 At the very outset of the Commission's  
12 work we, as you know, considered our position insofar  
13 as presentations by the Department were concerned.  
14 Given the normal role of the public servant, we  
15 came to the conclusion that it would not be appropriate  
16 for us to present recommendations or suggested courses  
17 of action for you to consider, or to ask your  
18 permission to have a substantial list of departmental  
19 witnesses either appear or stand available for you;  
20 but rather that our role should be that of providing  
21 whatever facts the Commission wished us to provide  
22 and which fall within our ability to provide, and  
23 to stand ready to assist, without in any way  
24 attempting to influence, of course, the proceedings  
25 or the solutions you might see fit to recommend or  
26 even to suggest solutions.

27 This has meant that in some ways we  
28 have been rather vulnerable to the criticism that  
29 has, upon occasion, been launched against the  
30 Department in the course of the proceedings or against





1 individuals in the Department. Perhaps if we had  
2 taken a different decision at the outset, one which  
3 would have made it possible for us to answer  
4 criticisms as they went along, this might not have  
5 taken place in quite the same sense as it has, but  
6 nevertheless I think the decision we took was the  
7 only possible one we could take.

8               Equally, it is not the role of the  
9 public servant to attempt to defend himself publicly.  
10 We have certain inhibitions placed upon us in this  
11 regard. It is for this reason I welcomed the  
12 intervention a few moments ago in the questioning  
13 of Commissioner Smith which has made it unnecessary  
14 for me to say certain things, perhaps, otherwise I  
15 would have wished to say in this regard. It is  
16 not my duty or incumbent upon me or appropriate for  
17 me to deal with this subject further.

18               The Commission itself can decide  
19 quite competently whether individual criticisms on  
20 occasion have been intemperate or ill-advised. We  
21 do not plead perfection in this regard. The  
22 Department and the individuals who work for us are  
23 subject to the same processes of human error as any  
24 individual or organization. We have tried to serve  
25 the public interest in this regard, and we are  
26 grateful for the recognition that has been given to  
27 this fact.

28               Indeed, my own submission or remarks  
29 this afternoon will be an attempt, merely, to indic-  
30 ate to you those particular points which we feel







1 require the attention of the Commission. We know  
2 you have been presented with a great mass of detail,  
3 some of which, I must say, I consider as subsidiary  
4 detail, relevant though it may be in a purely local  
5 situation, but not germane to the main issues that  
6 need to be dealt with if the future of marine pilot-  
7 age in this country is to be placed upon the found-  
8 ation which it needs in the twentieth century.

9 In passing, I would like to mention  
10 at this point, since I had not been aware of it until  
11 this morning, that some submissions, evidence or  
12 information relating to a particular situation at  
13 New Westminster were presented to you. We have not  
14 attempted to look at this within the Department, or  
15 to bring the Department of Public Works, which is  
16 more particularly concerned, into the picture,  
17 because while the matter is an important one and  
18 we believe a great many facts do need to be brought  
19 out, if any investigation of this matter were under-  
20 taken, really we do not consider it within the  
21 terms of reference of this Commission, because we  
22 feel it falls within the field of navigational  
23 works, the role of Public Works rather than marine  
24 pilotage.

25 In the collecting of the more than  
26 150 volumes of evidence, you have had an opportunity  
27 to gain a full insight into the problems involved  
28 in the administration of pilotage in Canada. As  
29 I said before, we have no particular cause to plead  
30 in this regard. We have endeavoured in the Department,





1 over the years, to discharge the responsibilities  
2 placed upon the Department and upon the Minister as  
3 "Pilotage Authority" under The Canada Shipping Act,  
4 but responsibilities for which, quite frankly, the  
5 terms of reference, as laid down in the legislation,  
6 have not always been clear. In recent years the  
7 extent of the power or authority vested in the  
8 entity having the title "Pilotage Authority" has  
9 been questioned in various quarters. The position  
10 of the licensed pilot in relation to the licensing  
11 authority and of the authority in relation to the  
12 licensed pilot has not been clear in law, either,  
13 in every regard.

14 This uncertainty or lack of clarity  
15 has upon occasions, we feel, hampered both the  
BB3 16 efficiency and safety standards. It is the right  
17 of the legal adviser of any individual to make full  
18 use of the available law to assist his client, but  
19 there have been occasions when this has meant that  
20 disciplinary processes we think necessary in the  
21 interests of safety have been interrupted or not  
22 carried out in a manner we believe necessary for  
23 safety reasons. Conflict has become apparent some-  
24 times between what pilots have claimed as their  
25 legitimate aspirations and the interests of those  
26 who employed their services. In such cases, when  
27 it has not been possible to bring the parties to  
28 a compromise, the officials of the Department have  
29 had no choice but, to the best of their ability and  
30 in the public interest, to advise the Minister as





1 Pilotage Authority, what they thought the appropriate  
2 course of action should be.

3 In a situation of this sort, it is  
4 inevitable that one party or other felt somewhat  
5 aggrieved, particularly since in the framework within  
6 which we have worked it has not always been possible,  
7 clearly, to define the public interest in these  
8 circumstances.

9 I am in no way surprised that in this  
10 context the efforts of the Department have upon  
11 occasion met with something less than appreciation,  
12 and that relations with organizations of pilots and  
13 of shipowners and agents have varied considerably:  
14 sometimes good; sometimes less than good; and some-  
15 times further down the ladder still.

16 Certainly, this change in the situation  
17 has reached an acute stage in recent years, culmin-  
18 ating in the equivalent of strike action by certain  
19 pilots almost three years ago which, in fact, was  
20 one of the major circumstances leading to the appoint-  
21 ment of this Royal Commission.

22 Now, I think all of us -- and I refer  
23 not only to the Department, but to those who use and  
24 provide pilotage services -- may, upon occasion, have  
25 been a little too close to this problem, and  
26 Commissioners like yourselves, having had little  
27 or no previous knowledge or experience of the sub-  
28 ject, when entering upon your duties, will, we believe,  
29 be better-able than those who have been much closer  
30 to the situation to take a completely objective view









1 with regard to this matter. Indeed, I would be the  
2 first to admit the necessity of dealing with urgent  
3 day-to-day problems as they arose, often in an atmosphere  
4 of urgency or virtual crisis, has tended to obscure  
5 the larger view of those dealing with the day-to-day  
6 problems.

7 If, as I continue with these remarks,  
8 I mention specific subjects about which you have  
9 already heard a great deal, I apologize for the  
10 repetition. Here gain, my intent is only to mention,  
11 highlight, if you will, those particular problems  
12 which we feel the Commission itself, or we hope the  
13 Commission itself will give time and attention to;  
14 in other words, the matters the solution of which  
15 we think is essential if we are to achieve a proper  
16 basis for pilotage which is obviously necessary in  
17 this country.

18 Perhaps one of the major sources of  
19 difficulties involved in the administration of  
20 pilotage is the matter of remuneration paid for  
21 services performed. Traditionally, the pilots have  
22 been paid on a fee basis, and a tariff of fees has  
23 been set by the Pilotage Authority for each district.  
24 Until the practice was instituted of government-  
25 subsidization of certain districts, all the expenses  
26 of operation were a first charge on the revenue, and  
27 what was left was divided among the pilots. In the  
28 main districts, the full revenue is now turned over  
29 to the pilots, without deduction other than for  
30 pension fund contributions and some travelling expenses.





1 This means that each pilot has a personal interest  
2 in every item of the tariff and is prepared to argue  
3 about the adequacy or inadequacy of the amount pay-  
4 able for any individual job he may perform, without  
5 regard to the aggregate amount received in the district  
6 over a year. The fee system means that the total  
7 revenue of a district, and consequently the remuner-  
8 ation of the individual pilot, depends upon the amount  
9 of traffic. Where the tariff is based, or partly  
10 based, upon tonnage or draught, the size of the  
11 ships served also affects the revenue. When an  
12 adjustment is made in a tariff, it is predicated on  
13 an estimated amount of traffic. If the traffic  
14 exceeds this estimate, the resultant revenue is  
15 inflated for the year involved.

16 In certain circumstances it has been  
17 apparent that pilots then may consider this higher  
18 or inflated revenue to be a new norm below which the  
19 revenue should not be permitted to fall in future  
20 years.

21 Again, without offering any recommend-  
22 ations and solutions or judgments, we have felt  
23 that this is one of the basic problems which confronts  
24 the Royal Commission.

25 Closely tied in with this matter of  
26 remuneration is the time-honoured matter of  
27 compulsory payment of pilotage dues. As the Commission-  
28 ers are aware, in all the pilotage waters in Canada,  
29 except in the Great Lakes Basin, there is no  
30 compulsion on the master of any ship to employ a pilot.





BB4 1 However, any unexempted ship must pay dues, whether  
2 a pilot is employed or not. The legislation providing  
3 for this system was presumably made on the premise  
4 that all vessels should contribute to the maintenance  
5 of a service that is available to all. This system,  
6 as you also know, is common in the United Kingdom,  
7 from which it was inherited; but in the United  
8 States, on the other hand, there is almost complete  
9 compulsory pilotage, as distinct from the compulsory  
10 dues approach.

11 We have been concerned as well over  
12 the problems that this has created for another depart-  
13 ment of government, and I feel therefore these have  
14 been drawn to your attention in the matter of  
15 exemptions, in the sense exemptions have not been  
16 based upon the need in terms of technical standards,  
17 efficiency or ability to perform of the ship's crew  
18 or officers, but upon the flag of the vessels  
19 concerned. This has raised problems for the Depart-  
20 ment of External Affairs, in connection with certain  
21 international conventions. It is also a variant  
22 of the approach which normally is taken in technical  
23 regulation by the Government of various transportation  
24 media, where normally judgment is exercised on the  
25 ground of competence and ability to perform, and  
26 not on the particular flag you may happen to have  
27 attached to your transportation vehicle.

28 This, in turn, brings us into the  
29 question of technical standards. Here, also, we  
30 have felt one of the matters we hope the Commission will







1 concentrate upon is related, and that is the question  
2 of the training necessary in order to provide competent  
3 pilots in the various regions where they are required  
4 across Canada. There are differences of opinion in  
5 this, just as there are in regard to the other  
6 matters I have mentioned. Some have emphasized the  
7 value of long apprenticeship periods with some  
8 academic training. Others have argued for more in the  
9 way of what I might call mature experience in respon-  
10 sible positions on board ships, followed by a shorter  
11 period of training in the region concerned. You  
12 will have studied the results of both these systems  
13 and the various variants thereof, and, we trust, will  
14 be in a position to give opinions on these matters,  
15 and also to comment, of course, on the question of  
16 the right of the shipping interests to be represented  
17 on examining boards for new pilots, because this  
18 also has been a matter upon which major differences  
19 of opinion have emerged.

20 Legally, the Pilotage Authority of  
21 a district is responsible for standards of competency,  
22 but some pilots' organizations have felt that this  
23 should be primarily a matter within pilots' hands  
24 without shipping interests participating therein,  
25 while the shipping interests have suggested they  
26 would like to have some say in this matter in which  
27 they have such a vital stake.

28 On the other side of this coin is the  
29 question as to whether or not a shipmaster, with  
30 an adequate knowledge of a pilotage district, should





1 be forced to employ a pilot at all or pay a toll for  
2 the use of the waters; in other words, whether or not  
3 a monopoly of the kind provided under present  
4 legislation is justified; and, if so, to what extent  
5 there should be governmental control.

6 Another feature I have seen somewhat  
7 less in the material and submissions placed before  
8 the Royal Commission, but another feature which has  
9 concerned us a great deal as a result of certain  
10 difficulties experienced in the last year or so, is  
11 the present definition in The Canada Shipping Act of  
12 a pilot as "a person not belonging to a ship who  
13 has the conduct thereof."

14 The question of how much responsibility  
15 a pilot has is directly involved. When does a pilot  
16 have the conduct of a ship, and when he does is he  
17 then responsible for the navigation of the ship and  
18 answerable for any accident due to faulty navigation?  
19 Or is he justified in using the defence that the  
20 master remains in command of the ship, whether or  
21 not a pilot is employed, and that the pilot is only  
22 an adviser? This is a serious problem that has  
23 arisen on more than one occasion as a result of  
24 our inquiry into shipping accidents.

25 I have noted also that information and  
26 submissions have been presented to you relating to  
27 the question of traffic control. You have heard  
28 evidence regarding the availability of radar-tracking  
29 systems by means of which a synoptic or overall  
30 view of traffic in an area can be fed to a central





1 information or control station. To the best of  
2 my knowledge, where these systems are induced in  
3 other countries, they are limited to the dissemination  
4 of information and no attempt is made actually to  
5 direct traffic in the sense that a master might be  
6 ordered to proceed or not to proceed on a certain  
7 course.

8 Obviously, the matter of legal  
9 responsibility for casualties possibly caused by  
10 errors in such remote control is involved here. In  
11 the Department, we have become very concerned and  
12 interested in this question of marine traffic control,  
13 and have set up what I might call a small working  
14 group or operations research group to do the first  
15 studies on feasibilities and possibilities in this  
16 connection -- in effect, a step which I may say,  
17 in spite of the various arguments which were advanced  
18 to us from aviation sources and which were quite  
19 similar to some of the arguments we have heard from  
20 marine sources, a step we took a little more than  
21 25 years ago when we made the first move to establish  
22 what was then non-existent air traffic control systems,  
23 a device now accepted and working for aviation across  
24 the whole of Canada, of course.

25 Although we have taken this step with  
26 regard to making a first preliminary investigation  
27 of this matter, we hope very much that the Royal  
28 Commission will have some comment to offer on this  
29 subject as well.

30 Passing on, in the pilotage districts







1 which are constituted under Part VI of The Canada  
2 Shipping Act, that is, pilotage areas outside the  
3 Great Lakes Basin, other than Churchill and Goose  
4 Bay, we have had quite a lot of difficulty in the  
5 question of the discipline of pilots. In all fair-  
6 ness, I must say I do not think these difficulties  
7 have arisen in our relationships with the pilots'  
8 committees or organizations themselves. They have  
9 arisen, rather, in a different context.

10           You have heard evidence concerning the  
11 practice followed in imposing penalties on pilots  
12 for infraction of bylaws, and you will have a clear  
13 appreciation of the difficulties inherent in trying  
14 to reconcile shipping movements with delays entailed  
15 in due legal process.       A report reflecting adver-  
16 sely upon a pilot's competence or conduct may reach  
17 the Department some time after the event referred  
18 to, when the ship concerned and all eyewitnesses  
19 have left Canada. In such a case, the Department  
20 can only invite the pilot to give his own explanation  
21 of the incident. If, in the case of a casualty, it  
22 appears evident that the pilot failed to exercise  
23 due care and diligence in the performance of his  
24 duty, he is sent a letter informing him of the fact  
25 and that the Pilotage Authority is considering  
26 imposing a penalty. The pilot is invited to submit  
27 his defence, to show cause why a penalty should not  
28 not imposed.

29           If it is considered by the technical  
30





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1 officers of the Department that the defence submitted  
2 does not excuse the pilot's failure, a penalty is  
3 presented in such circumstances.  
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1 Our concern here really is that, on the  
2 one hand, we wish to be quite fair to the individual  
3 and to protect all his legal rights, but, on the other  
4 hand, if there is reasonable evidence to indicate that  
5 public safety is prejudiced if that individual con-  
6 tinues to serve, even on a temporary basis pending a  
7 more detailed examination of the facts, are we per-  
8 forming our duty to the public in allowing that man  
9 to continue if we consider some doubt exists as to  
10 his technical ability -- are we performing our duty  
11 to the public in allowing him to continue until the  
12 matter can be determined definitely. The present  
13 provisions for hearing it do not provide us with a  
14 satisfactory procedure in regard to such a matter.

15 I think I have touched upon the main  
16 problems that have concerned us, my lord and com-  
17 missioners, in the Department, that have led us to  
18 the conclusion, that I know is shared by others, that  
19 some changes -- and possibly some radical changes --  
20 in this matter of pilotage within the legal framework  
21 of procedural approach are necessary, and, indeed,  
22 will be necessary. I think the fact that we find  
23 ourselves in this situation is not something that  
24 can be laid at the door of the pilots, or the ship-  
25 ping interests or the owners or agents, or the depart-  
26 ment. Perhaps to some extent, all of us may have  
27 to accept some responsibility for some of the diffi-  
28 culties that have emerged. We think, basically,  
29 that the problem is that we have been trying, in the  
30 middle of the twentieth century, to apply concepts







1 and legal frameworks that were developed in and based  
2 upon eighteenth and nineteenth century traditions and  
3 practices, and which, in large part, were inherited  
4 from other countries.

5 One of the last matters I would like to  
6 mention before concluding these brief remarks is, of  
7 course, the most difficult of all. There is no ques-  
8 tion about the fact that under present circumstances,  
9 and most of the variations that one can consider there-  
10 of, in regard to this matter, there is going to be  
11 created a monopoly, or a series of monopolies. Where  
12 tradition and custom are well-established in human  
13 experience, where monopolies have existed and are  
14 given to a small group public opinion and public  
15 interest has usually required that there be some  
16 outside regulatory control in order to assure that  
17 the monopoly does not abuse its position, and to  
18 ensure that basically the public interest as a whole  
19 is served rather than the interest of any one par-  
20 ticular group. It is this concept that lay behind  
21 the original creation of the Board of Transport Com-  
22 missioners, and the very restrictive provisions placed  
23 upon the railways at a time when they enjoyed a  
24 virtual overall monopoly of transportation. Other  
25 examples can be given as well, and it is this philosophy  
26 that underlies the combines investigation legislation.

27 I think it is inevitable, if a monopoly  
28 continues to exist, you must consider what degree and  
29 what type of regulation is necessary to ensure that  
30 the persons who have this monopoly do not abuse the





1 privilege. I do not believe that you can take the  
2 position that they themselves should be given the  
3 opportunity of coming up with the final answer on  
4 this. This is based on the whole philosophy of  
5 public interest where monopolistic conditions exist.

6 How much control there should be, and in  
7 what fashion it should be exercised, is a difficult  
8 question to answer. I would be the first to agree  
9 that such regulation as may be found necessary should  
10 not, perhaps, be in the hands of any department of  
11 government, in the sense of any departmental organiza-  
12 tion. I have been quite interested in the proposals  
13 that have been put forward regarding some special  
14 administrative agency or public body, and possibly  
15 a quasi-judicial body, that might be brought into  
16 existence in order to help deal with this situation.  
17 Here, again, all I can say is that we are sure that  
18 the recommendations that we know will eventually come  
19 from this Commission will not only be well founded  
20 but will take this particular problem into account.

21 My lord and commissioners, I apologize  
22 if most of what I have said has been factually  
23 repetitious. I repeat that I am not this afternoon  
24 entering any special pleading in support of any special  
25 policy or cause, but I am merely attempting to indi-  
26 cate those particular aspects of pilotage that have  
27 been of the greatest concern to us and which have  
28 caused us the greatest administrative difficulties,  
29 and which, therefore, we hope will be the issues which  
30 you yourselves will deal with as prime issues. We,





1 like most of those who have appeared before you,  
2 sincerely believe that changes, and, indeed, sub-  
3 stantial changes, will be necessary. Like them our  
4 sole interest is to ensure an adequate, safe, efficient  
5 and well-treated pilotage service, which is designed  
6 primarily to serve the interests of the users, because  
7 the interests of the users in any service concept  
8 must, in our opinion, be of paramount consideration.

9 Thank you, my lord and commissioners.

10 THE CHAIRMAN: Thank you very much,  
11 Mr. Baldwin. We shall adjourn at this time for  
12 five or ten minutes.

13 ---Short recess.

14  
15 MR. LALONDE: My lord and commissioners,  
16 since this is my second opportunity of speaking I  
17 shall try to keep it short. It can be assumed that  
18 because I shall speak in the English language I shall  
19 run out of words much faster than I would if I were  
20 to speak in the French language. I should like to  
21 raise a few points in connection with the submissions  
22 and addresses of my friends Mr. Brisset and Mr. Mahoney,  
23 and I shall run down this list as I go along.

24 THE CHAIRMAN: Will you say what you have  
25 to say with respect to Mr. Mahoney's remarks first,  
26 because he has to leave this afternoon?

27 MR. LALONDE: Yes, my lord, this is what  
28 I intended to do.

29 Mr. Mahoney has stressed the strong  
30 interest of his principals in the matter of pilotage,









1 and I have no doubt that this is so. I am sure that  
2 it would probably be unfair to judge that interest by  
3 the actual participation of his principals in the  
4 work of this Commission and their attendance at the  
5 sittings of this Commission. I must also be fair to  
6 my friend Mr. Mahoney and make a few corrections. I  
7 am sure they must be related to the fact that he could  
8 not attend some of the sittings of this Commission,  
9 or that he did not have an opportunity of reading all  
10 the evidence. He is probably in the same situation  
11 in which all counsel who could not get to go through  
12 all the evidence that was adduced before this Com-  
13 mission are.

14 My friend referred on a couple of  
15 occasions to the so-called absence of representations  
16 from pilots' associations in regard to navigational  
17 aids. I would respectfully suggest that he is not  
18 correct in that submission. There has been ample  
19 evidence before this Commission of numerous repre-  
20 sentations being made by pilots' associations as such  
21 in connection with navigational aids. In fact, he  
22 himself referred to the fact that the Pilots' Associa-  
23 tion complained about the lack of consent of the  
24 department for their changes in navigational aids.  
25 You have had the evidence of the installation of the  
26 Cap a la Baie light. You have had tabled before you  
27 the correspondence with the Seaway Authority con-  
28 cerning improvements. You have had filed with you  
29 correspondence in connection with improvements in  
30 Quebec harbour itself. I could go on with respect to





1 every district like this. You have heard of numerous  
2 meetings with the Seaway Authority or the Harbours  
3 Authority concerning various improvements.

4 My friend mentioned that I did not define  
5 working conditions. I should like to suggest that  
6 when I was speaking about working conditions in my  
7 main address I was referring in fact to the three  
8 points he mentioned, the first being the improvement in  
9 physical facilities, and I think the Pilots' Associa-  
10 tion did a lot of work in that respect. The second  
11 was aids to navigation, which I have covered, and the  
12 third point was the question of finances and other  
13 working conditions about which the pilots tried to  
14 make representations in order to get certain improve-  
15 ments.

16 My friend also stated that the 1913  
17 Royal Commission recommended the abolition of special  
18 pilots -- or, he said that I had said so. I would  
19 like to stress the fact that when I referred to that I  
20 said this was in the answer of the Corporation of  
21 Quebec Pilots to the report of the Royal Commission  
22 and not in the report of the Royal Commission itself.  
23 So, it was the Quebec Pilots in 1914 who were asking,  
24 as the real solution to the problems faced by pilotage  
25 at that time -- they were asking for the abolition of  
26 special pilots, while the Royal Commission Report it-  
27 self recommended the abolition of the pilots' corpora-  
28 tion itself.

29 My friend mentioned that one of the  
30 factors that intervened in the difficulties was the







1 fact that the meetings of all parties which the depart-  
2 ment wanted to set up did not work finally as they  
3 should have. I am sure, and I agree with him, that  
4 this was an honest effort by the department to find  
5 a new technique or a new procedure by which difficulties  
6 might be settled and conclusions and settlements  
7 arrived at, but I would like to stress that contrary  
8 to the shipowners' association the pilots always  
9 attended these meetings when they were called. As  
10 far as I can remember -- I stand to be corrected here,  
11 and this would appear anyway in the evidence adduced  
12 through the files of this Commission -- the pilots  
13 were the only ones who prepared briefs in advance  
14 which were sent to the department and the other par-  
15 ties for discussion at these meetings.

16 My friend said that he could not recall  
17 times when the Dominion Marine Association or the  
18 Shipping Federation asked for anything at these  
19 annual meetings. I would just like to refer the  
20 Commission to the brief of the Dominion Marine Associa-  
21 tion in December, 1960, as well as to the brief of  
22 the Shipping Federation in 1960. These briefs were  
23 not sent to the department as subjects of discussion  
24 at the annual meetings. In fact, we had to write to  
25 the department in order to obtain copies of such brief.  
26 We had not heard about it when it was filed.

27 As far as the representations made by  
28 the pilots concerned, I would disagree with his  
29 statement that the pilots would come a few weeks  
30 after the annual meetings and make fresh demands







1 which had not been made before. I would refer the  
2 Commission to the evidence and the documents filed in  
3 that respect.

4 As far as the work of the department is  
5 concerned I should like to repeat here what Mr. Mahoney  
6 has said, and what Mr. Smith has said. I would not  
7 like to have any inference drawn from my address that  
8 there was dishonesty and lack of good faith and what  
9 not in persons concerned with the responsibility of  
10 persons who are concerned with the administration of  
11 pilotage in the Department of Transport. My friend  
12 said there was no consultation. I should like to  
13 refer the Commission here to the fact that there was  
14 a consultative party with one pilot and a shipowner  
15 sitting in with the advisers to the government.

16 My friend referred to the special  
17 attitude that had been taken towards the pilots' pro-  
18 posals, and he stressed that this was quite normal  
19 in negotiations. I should like to stress that my  
20 point was not that either the department or the  
21 shipowners were suspicious towards the proposals --  
22 I think this is understandable -- but the complaint  
23 I made was that the suspicion was addressed to the  
24 corporations themselves as parties or as associations  
25 of pilots. I refer here once again to the trip  
26 of Mr. Booth to Montreal, and to the events in con-  
27 nection with the setting up of the Corporation of  
28 Professional Great Lakes Pilots.

29 My friend has talked about the democratic  
30 manner in which the corporations have been set up, and





1 he referred to his cross-examination of Captain  
2 Rousseau. I suggest that he read the examination  
3 of Captain Rousseau by myself and my friend Mr.  
4 Brisset. There I think it is set out in complete  
5 detail. You have in that connection all the docu-  
6 ments relating to the setting up of the various cor-  
7 porations, and I submit that his doubts and worries  
8 are not justified in the circumstances.

9 My friend has also registered an objec-  
10 tion to the proposal of the pilots' associations to  
11 run completely their own affairs. I would suggest  
12 that our brief has been prepared, and the recommen-  
13 dations have been made, having in mind proper safe-  
14 guards -- safeguards of minorities inside the pilots'  
15 organizations. A careful study of our recommenda-  
16 tions will show that we have been taking great care  
17 to see to it that the suggested commissioner of  
18 pilotage would have a truly responsible function in  
19 supervising the operation of pilotage in the various  
20 districts.

21 Then we come to the famous problem of  
22 exemptions -- as to the so-called tradition in the  
23 maritime world concerning coasting vessels. I will  
24 merely refer the Commission to our brief, paragraph  
25 375, pages 148 and following of the English text.

26 We refer there to the legislation in  
27 various European countries and the United States, and  
28 we refer also to the state of the legislation here,  
29 and we respectfully submit that the statements made  
30 by the Dominion Marine Association is not supported







1 by the actual situations in the various countries at  
2 the present time.

3 I should like to say also that there is  
4 certainly a difference between coasting waters in the  
5 traditional sense and the waters of the St. Lawrence  
6 River itself. Coastal waters have certain characteris-  
7 tics which the Commission is well aware of, and I am  
8 sure if you compare the situation on the St. Lawrence  
9 River itself you will see there is a substantial dif-  
10 ference, and truly the St. Lawrence River itself  
11 cannot be called anything else but pilotage waters.

12 In fact, I refer the Commission also to  
13 the fact that full exemptions were granted around  
14 1900 on the St. Lawrence River and about twenty-two  
15 years later these exemptions were withdrawn to the  
16 extent that they are limited now. I would also  
17 respectfully disagree with my friend concerning his  
18 assumption that the limits granted so far as exemptions  
19 are concerned were imposed only to protect Canadian  
20 flag vessels or Canadian coasting vessels. In fact  
21 I would submit there were numerous, and have been  
22 numerous, British flag coasting vessels that were  
23 under the maximum tonnage limit provided for by the  
24 exemptions, and the experience in the past proved  
25 that these exemptions were not granted for reasons,  
26 let us say, of protecting Canadian vessels versus  
27 other Commonwealth vessels.

28 Perhaps the best evidence in that respect  
29 contrary to what was stated in the Dominion Marine  
30 brief is that you have a difference in the level of







1 the exemptions between the Montreal District and  
2 the Quebec District, and that if the exemptions had  
3 been granted only to protect Canadian coasting vessels  
4 it would have been quite understandable that you would  
5 have had the same exemptions all over.

6 I notice that in the Dominion Marine  
7 Association's brief they mention the situation -- this  
8 is at page 21 -- as if the limit of exemptions was  
9 the same for Quebec as Montreal. I submit that  
10 there is an error there.

11 My friend has also referred to the  
12 analogies in the water above and below Montreal.  
13 Obviously Mr. Land stated that he was not a man of  
14 maritime experience; that he had only looked at the  
15 charts above Kingston. I would submit that so far  
16 as the St. Lawrence River waters themselves are  
17 concerned considerable evidence has been adduced as  
18 to the nature of the river as between one district  
19 and another. We would also add that one of the  
20 reasons why we suggest there would be compulsory  
21 pilotage above Montreal as far as Kingston is because  
22 of the fact that these are pilotage waters.

23 My friend referred to the German exper-  
24 ience. I should like to stress the fact that in the  
25 Kiel Canal there are no exemptions at all for ships  
26 of higher tonnage than 500 gross tons, and I am sure  
27 it would be wrong to pretend that German coasting  
28 vessels are all below that tonnage.

29 Mr. Mahoney has also referred to the  
30 familiarity of the officers of the lake ships with the





1 waters of the St. Lawrence River. I refer to the  
2 experience of the Cap a la Bale light. I underline  
3 also the fact that what is required is continuous  
4 up-to-date knowledge in pilotage, and this is the  
5 important factor -- not simply a broad general ex-  
6 perience that might go back over many years. I  
7 would think myself that theoretically it is possible  
8 to evolve a system by which certain officers could  
9 be granted special licences according to which they  
10 could pilot their ships. I think there is nothing  
11 impossible on a theoretical basis in that respect.  
12 I think, however, and our submission is, that this  
13 is no way to run a pilotage district, because many  
14 other things -- I do not want to repeat what I said  
15 before -- it will result in a substantial fluctuatio  
16 in the demand for pilots according to weather con-  
17 ditions and many other factors that will remain  
18 unpredictable. This will mean a much greater varia-  
19 tion in the requests for pilots than you have at the  
20 present time.

21 Moreover, I would like to stress again  
22 the fact that it would be extremely difficult, if not  
23 impossible, to check whether on each ship there is  
24 a ship's officer or master possessing the proper  
25 licence for the proper waters, and whether the licence  
26 is up-to-date or whether it has lapsed. Those  
27 problems would create, I would submit, insurmountable  
28 administrative difficulties.

29 I refer once again to the experience in  
30 England and France -- this goes back to the suggestion





1 for a certain type of captain's pilot licence. This  
2 system has been completely abandoned in France, and  
3 it is on its way out in England. I submit that it  
4 would be wrong to go to a system which in other  
5 countries is finishing.

6 If we refer to the experience in the  
7 private harbours to which my friend referred himself --  
8 he referred to the evidence of Captain Milne, but it  
9 is to be noted that Captain Milne has not been the  
10 master of a ship in the waters about which he was  
11 speaking. But, let us assume that the master of a  
12 ship certainly can under certain circumstances take  
13 his ship into Port Cartier. There is not much doubt  
14 about it. But, I submit that the owners of the  
15 harbour have taken the stand that while recognizing  
16 the fact that many masters can take their ships in  
17 they do not want to put themselves in the situation  
18 of having to assess every time a ship comes in whether  
19 or not the master of that ship should or should not  
20 have a pilot on board to do the docking. In their  
21 minds, a master coming in with a ship is competent  
22 enough to do the docking himself without endangering  
23 their multi-million dollar installation, as well as  
24 a multi-million dollar ship.

25 We have heard about the high values of  
26 ships. There is no doubt about that, and my friend  
27 referred to the evidence of Captain Bodensieck who  
28 mentioned that the CFL does employ pilots. There  
29 are the two Desgroseilliers brothers between Kingston  
30 and Montreal, plus the man they are training. That









1 was mentioned in the evidence they gave before this  
2 Commission.

3 They also referred to the deficiency  
4 aspect of pilotage, and I would say that there is no  
5 doubt that the question of efficiency in confined  
6 waters like a harbour where there is much more traffic  
7 than in the river itself, is a very important one, and  
8 it is also an important question in a system like  
9 the St. Lawrence Seaway. But, I refer also to  
10 efficiency in the administration of pilotage, and  
11 here I would refer to the problem created by sub-  
12 stantial fluctuations in requests for pilots that  
13 will occur if you have ships that might or might not  
14 call for pilots according to the conditions that apply  
15 on each trip.

16 As far as the evidence of Captain Milne  
17 as to the vast difference in time in the Quebec  
18 District with or without pilots is concerned, I  
19 notice that the question of whether he did notice any  
20 difference -- well, I am not sure from his evidence  
21 whether there was or was not any difference.

22 My friend has said that there should be  
23 an appeal from the Commissioner, and this is what we  
24 propose. He does not agree that the Commissioner  
25 should dissociate or divorce himself from the tariff,  
26 and on that also we agree. We submit that the tariff  
27 should be heard before the Commissioner at a public  
28 hearing, and that there then should be a public  
29 written report which should then go to the minister  
30 or the Governor-in-Council for approval. He





1 suggested that there be an appeal from the Commissioner  
2 to a judicial body of some sort. I submit that  
3 there is an important difference to be drawn between  
4 questions of law and questions of administration.  
5 I submit that there is certainly a danger in involving  
6 a judicial body in administrative decisions, and that  
7 if any appeal is to be had then a distinction is to  
8 be made. If it is a matter of law then it should  
9 go to the courts; if it is a matter of financial  
10 general administration then it should go to an ad-  
11 ministrative body and then, I submit, to the minister  
12 or the Governor in Council who are the proper  
13 authorities. I would submit that the reference to  
14 a judicial body in that connection is not correct.

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1                                COMMISSIONER SMITH:        Even if it is a  
2 question of law, or a mixed question of law and fact?

3                                MR. LALONDE:        If it a question of law  
4 I think it should go to court.    It is quite a problem  
5 if it is a mixed question of law and fact.    In  
6 connection, for instance, with a disciplinary matter  
7 I think it should go to court.    Then, if it a question  
8 of tariff, I don't know, in the case of that question,  
9 how it could be a question of law.    A mixed question  
10 of law and fact -- I think on this point I would like to  
11 think more about it and give it a rather more detailed  
12 study; but I think this distinction between  
13 administrative and judicial types of questions is an  
14 important problem.    One thing is sure, that strictly  
15 administrative questions, for instance, of policy,  
16 should not go to the court; I don't think courts are  
17 the proper bodies to settle these questions.

18                              My friend mentioned that the Great Lakes  
19 Basin does not go beyond Messina, and we agreed with  
20 that position; and I want to stress the point that  
21 American lakeships have been exempted below Messina  
22 down to Montreal.    There was evidence presented in  
23 support of that; and there can't be any discrimination  
24 between the treatment of Canadian lakeships and American  
25 lakeships, and, for that matter, other countries' ships  
26 on the St. Lawrence River.

27                              He said that we were asking for compulsory  
28 pilotage on the Great Lakes.    I think this should be  
29 clarified.    Our stand has been quite clear.    We  
30 want pilotage -- compulsory pilotage -- to extend so







1 far as Kingston. We did not take any position as to  
2 pilotage on the Great Lakes.

3 My friend has also said that while the  
4 shipowners seem to have taken a much better point of  
5 view, the pilots did not appreciate the point of view  
6 of the shipowners. That may be so -- I don't know;  
7 one of the reasons may be that we didn't see enough  
8 of them; but another reason might be that their case  
9 was not good enough in our opinion. But I leave that  
10 to the Commission to appreciate, I am sure.

11 Mr. Baldwin also mentioned the question  
12 of traffic control, and my friend, Mr. Brisset, referred  
13 to this also in his address, about the computing device  
14 and so on. I think that to be against it would be  
15 almost to be against motherhood. As he said, it is  
16 more information. We are all for more information.

17 The question is a question of priority.  
18 If there is plenty of money to do everything there is  
19 no problem. Our stand in this case is that it is a  
20 question of assessing priorities. We have been asking  
21 for years for linesmen and wheelmen on the St. Lawrence  
22 Seaway, or an improvement that wouldn't cost so much  
23 money, and we could not get it. It is very nice to  
24 buy a lot of hardware and bring in nice machinery  
25 which will give a lot of information, and we can't be  
26 against that, as I said before, but there is the  
27 question of assessing whether, in getting that, it will  
28 mean that the pilots will not get linesmen or wheelmen,  
29 or will not get improvements in the ordinary  
30 navigational aids.





1 It is not a question, or our stand, that  
2 these automatic devices should not be agreed on and  
3 put into effect, but I am struck by the fact that the  
4 Department set up immediately a working committee to  
5 study this matter, and I more or less want to underline  
6 the fact that there was no such working committee set  
7 up to consider linesmen and wheelmen over the years.

8 This is a matter of priority which must be  
9 assessed. We are for it if it means <sup>the</sup> anybody-can-get-  
10 anything-he-wants sort of thing, and this Commission  
11 would certainly be in a better position than we are to  
12 assess whether this should be first or something else.

13 Now I want to come to...

14 THE CHAIRMAN: Do you mean by that that  
15 linesmen on the Seaway are more important than the  
16 radio communications, say, at Quebec?

17 MR. LALONDE: Well, I think it is a  
18 question of assessing priorities, if there is not  
19 enough money for both of them. I presume that the  
20 Department should be in a position to assess which  
21 will be first, but it should be a clear-cut judgment  
22 and a decision on priority and not a case of jumping  
23 ahead and spending maybe a couple of million dollars  
24 on it.

25 As to my friend Mr. Brisset's address,  
26 I have only a few remarks.

27 First, in respect of the ships that had to  
28 pay substantial pilotage dues at the St. Lambert Lock,  
29 I would just like to stress the fact that the ship  
30 perfectly well could have cancelled the pilot and it





1 would only have cost him ten dollars; and she could  
2 have cancelled the Cornwall pilot while that pilot was  
3 waiting, if the ship felt that it wouldn't go through  
4 the lock soon. So that I would say that what is  
5 being complained about is the decision of its own  
6 master.

7 Reference has been made to the various  
8 positions, or, at least, to the two positions taken by  
9 the Seaway. I would like to recall, I think, that  
10 Mr. Burnside, indeed, appeared twice, but on the first  
11 occasion he was expressing his own personal view, and  
12 this is quite clear in the evidence. The stand of the  
13 Seaway was taken at his last appearance.

14 The Shipping Federation has said that  
15 they do not see any other alternative in the Welland  
16 Canal to the delays that are encountered than to have  
17 the St. Lawrence Seaway Authority take over the pilots'  
18 responsibility.

19 Frankly, I think there is a non sequitor  
20 here. If the pilots are to be given the administration  
21 and made free entrepreneurs like elsewhere in the river,  
22 I am ready to bet that the delays would be substantially  
23 reduced. But I am sure, also, that it is not because  
24 the St. Lawrence Seaway does not have the authority over  
25 the pilots that there are delays occurring there.  
26 The best evidence of that is that the St. Lawrence  
27 Seaway Authority has no responsibility for pilotage  
28 between Montreal and Sorel and there are no substantial  
29 delays there.

30 If I were to argue the general comments and







1 my friend's suggestions about the administrative  
2 structure it would be to say that I feel as if a great  
3 effort had been made to find some way by which a  
4 method could be found under which the pilots would not  
5 have anything to say in the administration of pilotage;  
6 and I submit that the end result, on my friend's  
7 suggestions, would be the establishment, in the long  
8 run, of a very heavy administrative structure and a  
9 complex structure which we think is not required for  
10 the purpose of pilotage. I think that the aims which  
11 we are all aiming for can be attained without that  
12 administrative structure.

13 I submit that there have been tariff  
14 reductions in the past, contrary to what my friend said;  
15 there have been some, I believe, in the thirties, and  
16 also there have been some tariff changes above Montreal  
17 in the fifties.

18 We could argue about the attitude of  
19 the Shipping Federation concerning earnings and  
20 remuneration of pilots. I will only say here that  
21 I cannot agree with the economics that are behind  
22 the Shipping Federation's stand. I think their  
23 economics are extremely conservative and not in line  
24 with the current economic theories concerning the  
25 participation of all the factors which would lead to  
26 an increase in productivity in particular; and here  
27 I refer, again, to the evidence of Messrs. Martin  
28 and Cardin.

29 So far as the suggestion that the  
30 establishment of Quebec harbour docking pilotage would





1 reduce the workload for the pilots between Quebec  
2 and Sorel, if docking pilotage were created in that  
3 area I would like to mention that most trips are  
4 through trips where you have ships coming up or going  
5 down the river, and the fact that there would be  
6 docking pilots would not result in a reduction in the  
7 workload of the Montreal River pilots between Quebec  
8 and Sorel.

9 Most likely the situation at present  
10 existing in Montreal harbour would repeat itself in  
11 Quebec, whereby you would have the docking pilot taking  
12 the ships and docking the ships, or ships doing movages  
13 in the harbour, but you would very likely have the  
14 Montreal pilot taking the ship in the dock and taking it  
15 up the river.

16 THE CHAIRMAN: I don't think this was  
17 the proposal. I thought his proposal was that wherever  
18 a ship was coming to the harbour limits the pilot would  
19 be relieved by a harbour pilot, which is not the system  
20 that there is in Montreal.

21 MR. LALONDE: Well, the Federation of  
22 Pilots' proposal was that all ships coming up the river  
23 should be relieved -- there should be a pilot to take  
24 over and dock the ship if that ship was stopping at  
25 Quebec. But I refer you to the evidence given by  
26 Captain Bodensieck and Captain somebody else at Quebec  
27 who were thinking in terms of docking pilots for ships  
28 both coming up and going down the river.

29 THE CHAIRMAN: Which would result in the  
30 problem of some Montreal pilots not docking ships at





1 certain times.

2 MR. LALONDE: Yes; that is, the St.  
3 Charles River; and I think that is where Captain  
4 Bodensieck said that he would consider all ships should  
5 have a docking pilot.

6 But what I would say is that, at any rate,  
7 since most of the ships going through there would be  
8 docking at Quebec Harbour, or in Quebec Harbour, there  
9 would be no real change from the present situation  
10 so far as the workload is concerned.

11 So far as the pilots' associations are  
12 concerned my friend said that he was biased, and  
13 he said that himself, but I think the facts there,  
14 allowing for the bias, stand up quite strongly.  
15 My friend, Mr. Brisset, mentioned that members were  
16 called upon to sign before their examinations.

17 I submit that there is no evidence at all  
18 anywhere that candidates for examination were asked to  
19 sign to become members before the passed their  
20 examinations to become pilots. I think there is  
21 nothing in the evidence to that effect and that the  
22 evidence is to the contrary.

23 He mentioned the brief submitted by twenty  
24 one pilots. He said it was significant that there  
25 had been six -- what he called -- recantations.  
26 I think this is very understandable and very simple  
27 and there is nothing sinister about it either. I  
28 am sure that if all the dictatorial powers that he  
29 referred to existed you would have had twenty one  
30 recantations, not six; and that, in fact -- and there







1 was evidence mentioned before this Commission in this  
2 respect -- these people changed their minds, and since  
3 I presume they are intelligent people they probably  
4 thought it over and decided that what they had signed  
5 was probably not the best solution. There is nothing  
6 sinister about that.

7 My friend also quoted an editorial. Well,  
8 I will not repeat what he said on that subject.  
9 I will only say that people should not be responsible  
10 for what is written by any irresponsible newspaper  
11 man in any newspaper, and certainly the paternity of  
12 such things should not be attributed to somebody else.

13 In effect, these corporations -- once  
14 again I want to stress this and repeat it -- there  
15 is nothing at all in the corporation system for pilots  
16 that is not available to any citizen in this country.  
17 What was used were the laws of the land; and this is all  
18 there is to it. What some people are trying to do  
19 here is to imply that pilots, as a group, should be  
20 crippled or prevented in certain respects from using  
21 the general law of the land; and I would like to point to  
22 the Companies Act, to mention only that one. Our  
23 stand is quite categorical in this respect, that there  
24 is no reason why this particular group of people should  
25 not receive the general rights that belong to all  
26 citizens of this country under the general laws of the  
27 land.

28 As to the Great Lakes area, my friend  
29 referred to Exhibit 1263, being the letter written by  
30





1 the Lake Superior Pilots' Association, the letter  
2 dated February 29th 1960, and I submit that that was  
3 a time when that association was still led by the  
4 same board of directors that was running it when it  
5 was set up; that is, by a shipping agent and various  
6 people reference to whom was made in the evidence.

7 These, My Lord, are the remarks that I  
8 had to make, and I wanted to keep them short and I hope  
9 I have succeeded in so doing. They are just points  
10 which I would like to be noted and clarified insofar  
11 as our position is concerned.

12 Once again I wish to state that the pilots  
13 are still at the disposal of this Commission if there  
14 is any information which is required or requested.

15 THE CHAIRMAN: Thank you, Mr. Lalonde.

16 Mr. Duncan, would you be ready to start  
17 for about half an hour now and then continue tomorrow  
18 morning?

19 MR. J.M. DUNCAN (Canadian National Railway  
20 Company.):

21 Yes, My Lord.

22 May it please your Lordship and members  
23 of the Commission: I confess to have been a bit  
24 surprised at the length of the addresses by counsel for  
25 the other interested parties, and I trust that the  
26 Commission will not be judging the importance of the  
27 submissions, or the importance to be attached to the  
28 submissions, by the length of the address, nor judging  
29 the importance of the submissions to the particular  
30 clients by the forensic skill of their counsel.





1 My remarks will, I hope, be brief and will  
2 relate to Canadian National's operations on the east  
3 coast.

4 I confess to have been taken a little bit  
5 by surprise today by what appears to have been an  
6 exchange of correspondence, or, at least, some  
7 correspondence between the Department and some department  
8 of the Canadian National Railway Company with respect to  
9 pilotage in Newfoundland.

10 I will not attempt to alter my submission  
11 to the Commission, because I think, in general, the  
12 remarks which I proposed to make are just as applicable  
13 as though there had not been such an exchange of  
14 correspondence, and I refer, of course, to the question  
15 of the applicability of Part VI of the Canada Shipping  
16 Act; and I believe that there has been in Newfoundland  
17 and perhaps also here in Ottawa, at hearings which I did  
18 not attend, certain evidence adduced with respect to  
19 this.

20 I do not propose to get into the legal  
21 aspect of this, but, as I say, to restrain myself and  
22 to confine my remarks to the situation with respect to  
23 which I addressed the Commission and brought evidence  
24 in North Sydney on June 3rd 1963.

25 If I might refresh the Commission's memory  
26 with respect to that, the Canadian National Railway  
27 Company is, in effect, an agency of the government  
28 of Canada.

29 In implementation of one of the terms of  
30 reference -- one of the terms of union -- between







1 Newfoundland and Canada, particularly term 32, Canada  
2 undertook to maintain, in accordance with the traffic  
3 offering, freight and passenger service between North  
4 Sydney and Port aux Basques, and I would emphasize  
5 here, as I will in later remarks which I will make to  
6 the Commission, the importance of this portion dealing  
7 with the traffic offering.

8 It is, I think, safe to suggest that  
9 the role of Canada under the terms of union -- under  
10 this particular term -- is to provide whatever is  
11 necessary in order to maintain this vital link between  
12 the mainland and the island province.

13 Parliament has entrusted the operation  
14 of that service between North Sydney and Port Aux  
15 Basques to the Canadian National Railway Company, and I  
16 do believe that the entrustment order with respect to  
17 that has been filed with the Commission.

18 The terms of union also provide that this  
19 will, in effect, be in lieu of a railway link; in  
20 other words, the same tariffs -- railway tariffs --  
21 are applicable.

22 This is all part of the statute and I think  
23 I need belabour the point no further, but I give it  
24 only in order that the Commission will appreciate that  
25 there is no mechanism whereby the rates prevailing in  
26 respect of goods shipped on these particular vessels  
27 can be increased to take care of any additional  
28 pilotage, or, indeed, any additional expense, which is  
29 incurred in this particular service.  
30





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1 But I mention it only in order that the Commission  
2 will appreciate that there is no mechanism whereby  
3 the rates prevailing in respect of goods shipped  
4 on these particular vessels can be increased to take  
5 care of any additional pilotage or, indeed, any  
6 additional expense which is incurred in this  
7 particular service.

8 I would suggest in this respect that  
9 the position of Canadian National differs rather  
10 materially from virtually any other shipping concern  
11 which, theoretically at least, could raise its rates  
12 to take care of any increased costs.

13 The C.N. operation at the moment is  
14 the motor vessel WILLIAM CARSON, a large ship, the  
15 CABOT STRAIT, which has a net tonnage of something  
16 in excess of 1,085 tons, and several other ships,  
17 some actually operated by C.N. and registered in  
18 the name of the Crown and entrusted for operation,  
19 and other charter vessels. This is not new; the  
20 Commission has this evidence before it.

21 In the ten-year period 1954-1963,  
22 pilotage at Port aux Basques increased from \$14,086.62  
23 in 1954 to \$38,856.26 in 1963; and at North Sydney  
24 from \$17,577.47 in 1954 to a high of \$55,821.52 in  
25 1962. In 1963 it was \$44,359.38; and on figures  
26 which are as yet not official there is a rather  
27 substantial reduction in 1964 due, I believe, to  
28 certain alterations which were made in the bylaws.  
29 But, in any event, though I hesitate to state it as  
30 a fact, this will still result in pilotage in the





1 neighbourhood of \$25,000 to \$26,000 being paid by  
2 C.N. at North Sydney.

3 In the ten-year period, C.N. has  
4 paid at Port aux Basques the sum of \$261,137.04, and  
5 at North Sydney \$392,870.55, or a total of \$654,007.59.

6 The evidence before the Commission  
7 is that in recent years about 85% of these fees  
8 have been payable in respect of the ferry operation  
9 of just two vessels, the WILLIAM CARSON and the  
10 CABOT STRAIT. Neither of these vessels has, at  
11 any time, used a pilot either at North Sydney or  
12 at Port aux Basques, so that something in excess  
13 of half a million dollars has been paid and no value  
14 has been given. Pilots are there and can be used.  
15 The fact of the matter is that the pilot at Port  
16 aux Basques was a third mate on one of the vessels  
17 of Canadian National, according to the evidence  
18 before the Commission, before he became a pilot,  
19 and the masters of the vessels in C.N. service are,  
20 I suggest, at least as well trained and have as good  
21 tickets as the best of the pilots at North Sydney.

22 Indeed, on the basis of the evidence  
23 before the Commission, the skippers of the C.N.  
24 vessels, because of the number of times that they  
25 have occasion to enter and leave the harbours of  
26 North Sydney and Port aux Basques, have every bit  
27 as much experience as any of the pilots in the area  
28 in the actual waters.

29 I have referred to the increase in  
30 pilotage fees, and I would draw the Commission's







1 attention to the fact that in recent years it has  
2 been substantially increased. This, of course, is  
3 due to increased business, and due, as I indicated  
EE2 4 earlier, to the Canadian National, as the agency of  
5 government, doing precisely what it was required by  
6 Term 32 of the Terms of Union to do; that is, to  
7 put on such facilities as are necessary to take care  
8 of traffic operating between mainland Canada and the  
9 Island Province of Newfoundland.

10 I would point out that notwithstanding  
11 the increase in the business operating to C.N., there  
12 has been very little if any increase in any work  
13 required of any of the pilots either at North Sydney  
14 or Port aux Basques; but, of course, the record speaks  
15 for itself with respect to the increase in pilotage  
16 which has been experienced.

17 I would suggest to the Commission that  
18 there is very substantial discrimination being  
19 practised at North Sydney with respect to C.N.  
20 operations. There is evidence -- I think, at page  
21 3,490 of the Commission's hearings -- that because  
22 of some complaints of the smaller shipowners, or,  
23 rather, the owners of the smaller ships, that there  
24 was an abatement of the pilotage payable in respect  
25 of small ships.

26 Indeed, the evidence of Captain  
27 Parker, at page 3,425, indicates that the owners of  
28 small vessels, to use his words, were complaining  
29 about paying pilotage where the service was not  
30 used. Because of the pressure for exemption, exemption





1 was granted in 1960 so that only vessels in excess  
2 of 1,000 tons were in a particular situation required  
3 to pay pilotage. This is where I suggest there is  
4 rather substantial discrimination; and that is that  
5 the owners of the larger vessels are now being  
6 assessed pilotage even though a service is not  
7 required, while those of small vessels are not so  
8 assessed. Indeed, I pointed out that in 1960, in  
9 order to make up the difference, apparently, between  
10 what had been earned under the old scheme, the owners  
11 of the vessels of 1,000 tons or more were assessed  
12 an additional 7-1/2%. I suggest this is adding  
13 insult to injury, and the fairness of the scheme  
14 quite escapes me.

15 If the Commission agrees, as I feel  
16 it must, that the present situation is not a pretty  
17 one, then I think it must be conceded that if it is  
18 not altered substantially it will shortly become  
19 a downright scandalous one.

20 I apologize to the Commission for what  
21 appears to be the introduction of evidence at this  
22 point, but I think the Commission can satisfy itself  
23 as to the accuracy of my representations.

24 In April of 1965, pursuant to its  
25 obligations under ---

26 COMMISSIONER SMITH: What year did  
27 you say?

28 MR. DUNCAN: April of this year.

29 COMMISSIONER SMITH: April, 1965?

30 MR. DUNCAN: Yes.





1 COMMISSIONER SMITH: Do you mean last  
2 April?

3 MR. DUNCAN: No, April, 1965, this  
4 April coming.

5 In April of 1965 Canadian National,  
6 pursuant to its obligations under Term 32, will put  
7 into service between North Sydney at Port aux  
8 Basques a vessel known as the GRAND HAVEN, which is  
9 a car ferry 110 feet longer and three feet wider than  
10 the WILLIAM CARSON. This is a vessel which, until  
11 the Cuban trouble, had been operating between Cuba  
12 and Miami, and it has been purchased by the Govern-  
13 ment and it is going to be put into Newfoundland  
14 service.

15 In mid-1967 it is anticipated there  
16 will be put into service another large vessel plying  
17 between North Sydney and Argentina. This will be  
18 some 30 feet longer and three feet wider than the  
19 CARSON. I understand the keel has already been  
20 laid for this ship.

21 In December, 1967 it is anticipated  
22 that C.N. will be putting into service another rail-  
23 car ferry operating between North Sydney and Port aux  
24 Basques. This vessel will be 125 feet longer and  
25 three feet wider than the CARSON.

26 In December, 1967 C.N. will be putting  
27 into service between Borden and Tormentine, in the  
28 Northumberland Strait area, another vessel some  
29 five feet longer than the CARSON and about the same  
30 width. It is anticipated that when not required in







1 the Northumberland Strait service it will be used  
2 in the Gulf service.

3 The significance of this is, I am sure,  
4 appreciated by the Commission, because each of these  
5 vessels is of such a size and will have such a  
6 tonnage as to attract pilotage, and unless there  
7 is a substantial change in the regulations governing  
8 pilotage there will be a very substantial increase  
9 in the amount of pilotage paid at North Sydney and  
10 at Port aux Basques.

11 It is anticipated that all of these  
12 vessels will be manned by masters who right at this  
13 moment are capable of operating the WILLIAM CARSON  
14 or the CABOT STRAIT. I understand all the men who  
15 are proposed to be the masters of these ships are  
16 currently in our service and are masters or mates in  
17 our vessels in the Gulf service. Like the CABOT  
18 STRAIT and the WILLIAM CARSON, these vessels will  
19 not require pilots and will not use them.

20 Unless a substantial change is made  
21 in the regulations governing pilotage in this area,  
22 C.N. and, through the pockets of C.N., Canada  
23 generally will be paying fabulous sums which have  
EE3 24 in no way been earned.

25 I apologize for making these  
26 representations as representations of fact at this  
27 time, but I do believe that these are considerations  
28 which must concern the Commission, and I make  
29 no apologies for making the representations and  
30 apprising the Commission of the facts.





1 As is in evidence before the Commission,  
2 C.N. does not require the service of pilots on these  
3 vessels. Quite frankly, it has used pilots on chartered  
4 vessels, but if there were no pilots it would not  
5 work any great amount of hardship, since in dollars  
6 and cents it would be a good deal cheaper to simply  
7 use one of our mates as a pilot on one of these  
8 charter vessels than to pay the rates we are asked  
9 to pay.

10 As I have indicated to the Commission,  
11 our masters and mates operating into and out of  
12 North Sydney and Port aux Basques do so more often --  
13 indeed, on the basis of exhibits submitted by the  
14 pilots -- more often, at least on an annual basis,  
15 than do the pilots themselves.

16 It is our submission that the position  
17 of C.N. in this area is somewhat unique, and I  
18 urge upon the Commission that it should, perhaps,  
19 treat the C.N. position at Port aux Basques and  
20 North Sydney as unique, and in its recommendation  
21 recognize the fact that in respect of these vessels  
22 at least and, presumably, also the new ones which  
23 will shortly come into service, pilots are not  
24 required and C.N. should be specifically exempt  
25 from pilotage.

26 I would like to make my suggestion  
27 a little broader than that. That is that vessels,  
28 regardless of their size and regardless of by whom  
29 they are owned, that are operating in a ferry service  
30 -- and I recognize the Commission's difficulty in





1 defining what is or is not a ferry service, but I  
2 think perhaps we can agree that a daily service,  
3 which is what is operated back and forth in this  
4 area, comes very close to any definition that could  
5 possibly be made for a ferry service -- should be  
6 exempt from pilotage fees except, of course, upon  
7 the occasions when pilots are used. There can be  
8 no quarrel if a service is rendered. But that,  
9 similarly, I think that where a service is not  
10 required and is not given, that should not be paid  
11 for.

12 THE CHAIRMAN: As is being done in  
13 Saint John, New Brunswick.

14 MR. DUNCAN: I believe that to be  
15 the case, sir. I feel I cannot make a submission  
16 specifically on behalf of our competitors there, but  
17 I believe the situation is identical.

18 Secondly, there has been adduced in  
19 evidence the fact that the pilots benefit directly  
20 from decisions of shipowners to reduce their shipping  
21 costs by the use of larger vessels. This, notwith-  
22 standing the fact the work required of a pilot is  
23 not at all increased - I would suggest this is  
24 particularly true in the C.N. situation - and  
25 certainly, of course, his personal liability is  
26 wholly unaffected.

27 In view of the remarks made earlier  
28 by the Deputy Minister, I do not propose to address  
29 anything to the Commission in that regard, but it  
30 seems to me there is no sound basis for tying pilotage







1 dues to shipping tonnage when there is no additional  
2 responsibility and, indeed, no additional work; and  
3 particularly is this true when no work is, in fact,  
4 performed.

5 If there is to be a variation in  
6 pilotage dues, it would seem to me the variation  
7 ought to be tied to the time actually consumed and/or  
8 the work performed. In other words, because a pilot  
9 in navigating a large vessel that takes 50% more  
10 time, he then should perhaps be entitled to 50%  
11 more, but certainly where he navigates a vessel in  
12 the same time of, say, 500 tons at the same rate  
13 as one of 4,000, it is ridiculous there should be  
14 any difference in the pilotage.

15 My next submission relates to the  
16 licensing of pilots. At North Sydney in June, 1963,  
17 at the Commission's hearing, the Commission will  
18 recall one of the pilots, doing nothing more  
19 exhausting than testifying before the Commission,  
20 collapsed on two occasions. I do not know the  
21 cause of his collapse, and I suspect the Commission  
22 does not either.

23 MR. LANGLOIS: I do not think it is  
24 fair on this point to cast any inference by my  
25 friend, and I would be pleased if he would have the  
26 decency to withdraw it.

27 COMMISSIONER RENWICK: We do not  
28 know what he is going to say about it.

29 MR. DUNCAN: I am going to clear this  
30 up, if my friend will give me a few minutes longer.





1                   One is tempted to speculate on the  
2   stamina of the man, but we have no evidence on that.  
3   It seems to me this is the significant part of the  
4   whole thing. There is no way of knowing at any moment  
5   of time the physical capabilities of any person who  
6   is a pilot. We do not know whether this was a  
7   temporary illness in the case of this particular  
8   man. This may be something which hits him regularly.  
9   If it is, then one also is tempted to speculate upon  
10  the effectiveness of such a person on the bridge of  
11  a ship.

12                  I am not being critical of the partic-  
13  ular person. I do not know how good a man he is,  
14  but I'm suggesting it does point out that no one  
15  in the Department of Transport knows or knew at that  
16  time what were the physical capabilities of that man,  
17  whether there was any physical defect. Indeed,  
18  so far as I am aware there is no standard of medical  
19  fitness.

20                  Industry generally provides for  
21  regular medical examinations of its officers.  
22  Speaking for my own principal, it requires all of  
23  its train crews, all of its marine crews to be  
24  medically-examined regularly; and if any defects are  
25  found, the man is taken out of service.

26                  But so far as I am aware, there is  
27  no standard set up for the regular medical examination;  
28  the regular medical checks of any person once he  
29  is appointed as a pilot.

30                  Similarly, one is inclined to wonder





EE<sup>4</sup> 1 what are the professional qualifications of pilots.

2 The evidence with respect to the pilots  
3 at North Sydney is that there were at least three  
4 of them who were mates before becoming pilots. The  
5 man at Port aux Basques was third mate on one of the  
6 ships in C.N. service. I have not the slightest  
7 doubt that running back and forth in a harbour,  
8 a man becomes pretty knowledgeable as to the dangers  
9 which might be encountered in that harbour. However,  
10 sometimes there have to be pilots appointed, and,  
11 as I understand the regulations, these are appointed  
12 by a pilots' committee without any minimum standard  
13 provided by the Department of Transport or some  
14 governmental organization as to the minimum require-  
15 ments of education, training and health. I would  
16 suggest that common standards are required and should  
17 be provided, and I suggest this is one of the matters  
18 which the Commission should consider when making  
19 its findings.

20 We believe a very high standard of  
21 quality, ability and health should be set, and should  
22 be strictly, rigidly and strenuously enforced. And  
23 we believe that this can best be accomplished by the  
24 licensing of pilots by some group other than a pilot-  
25 age committee in a particular area.

26 It is also submitted that pilotage  
27 is as much a port facility as the provision of  
28 dockage, dredging of channels, locating of buoys,  
29 and so on, and that this should be provided, as is  
30 the locating of buoys and the dredging of channels,







1 et cetera, by some Crown agency. In this manner  
2 we would think the uniformity we suggest is desirable  
3 and, indeed, necessary. There would also, I submit,  
4 be the advantage of the elimination of the complaints  
5 which we hear fairly frequently that there are too  
6 many pilots, or that they are grossly overpaid. I  
7 think it is probably fair to suggest that in some  
8 areas they are overpaid and that in some areas there  
9 are more pilots than are required. Indeed, the  
10 Commission need go no further than the evidence  
11 taken at North Sydney with respect to the number of  
12 pilots. At page 3,563 of the evidence, Captain  
13 Parker admitted the number of pilots on the strength  
14 was sufficient to handle all vessels into and out  
15 of the port. That, of course, includes C.N. vessels.  
16 But 40% of the movements, I believe the evidence  
17 was -- certainly, it was in excess of 30% of move-  
18 ments into and out of North Sydney are C.N. move-  
19 ments, so as an arithmetic calculation it would  
20 seem they are over-strengthened by some 30% to 40%.

21 With respect to the question of over-  
22 payment of pilots, I do not know what a pilot should  
23 be paid. I do not pretend to know, but the pilots  
24 at North Sydney, I believe, got something in the  
25 neighbourhood of \$8,000 to \$9,000 a year, whereas  
26 the pilot at Port aux Basques in 1962 earned some-  
27 thing like \$15,500, and his boatman made something  
28 in excess of \$13,700. Somebody is overpaid or  
29 somebody is underpaid.  
30





1 I would suggest that pilots like workmen  
2 in other industries ought to be paid salaries com-  
3 mensurate with the work which they perform. And,  
4 it should not, I suggest, depend upon the whim of  
5 an owner as to the size of the vessel he operates  
6 in to and out of a harbour, nor, I suggest, should  
7 they be put in the position of unilaterally increasing  
8 the pilotage fees which are payable.

9 As I indicated to the Commission earlier,  
10 it is the view of the Canadian National that the CMS  
11 position is unique, and even though the Commission  
12 does not feel that the comments we have made in the brief  
13 are applicable to other concerns I submit that they are  
14 very relevant to the Canadian National in any event in  
15 its particular position as an agency of the Crown.  
16 I would strenuously urge upon the Commission that  
17 its recommendations should contain one relating to  
18 the exemption of Canadian National vessels in the  
19 Newfoundland service from the payment of pilotage  
20 dues.

21 COMMISSIONER SMITH: Mr. Duncan, I  
22 want to ask you just one question. In the second  
23 paragraph on page 5 of your brief you say that the  
24 vessels operating in the ferry service, whether  
25 operated by the Canadian National or other person or  
26 persons should be wholly exempt from the payment of  
27 pilotage dues -- and this is what I want to stress --  
28 "except on such occasions on which the services of  
29 a pilot are used on board the vessel". Now, as  
30 his lordship has already said, the situation there is





1 the same as it is in the harbour of Saint John, New  
2 Brunswick, but there is this difference, as I see it,  
3 that in the harbour of Saint John there is available a  
4 rather considerable amount of pilotage revenue from  
5 the ships that use pilots, whereas in the harbour of  
6 Sydney, if you eliminate the Canadian National vessels,  
7 there is not that source of revenue. Now, just on  
8 that angle of it alone there appears to be a dupli-  
9 cation in what I have read that from the standpoint  
10 of insurance you will be able to have a pilot when  
11 you want one, that the pilotage service should be  
12 there?

13 THE CHAIRMAN: In other words, in your  
14 case at Sydney there is an example of the application  
15 of Sections 346 and 347 of The Canada Shipping Act.  
16 Section 346 sets the exemptions, and Section 347 gives  
17 the power to the local authority or the pilotage  
18 authority to withdraw to the extent that money is needed  
19 to maintain the service.

20 MR. DUNCAN: Of course, the power is  
21 there, as your lordship and the commissioners know,  
22 but the power is never exercised, and therein lies  
23 the evil. I cannot argue that there are some places --  
24 and Sydney undoubtedly is one -- where the level of  
25 shipping into and out of the harbour is such that it  
26 requires the services of a pilot. However, I have  
27 some serious doubts that at Sydney it requires the  
28 services of twelve pilots. One has only to look  
29 at the exhibits -- I think it was Exhibit 401 that  
30 set out what was the amount of work performed by the







1 pilots at Sydney in the busiest month in 1962.  
2 According to that exhibit we find that the busiest  
3 pilot worked 29 hours, and the man who was least busy  
4 had four trips in a month, I think. These men had  
5 two weeks out of every month during which they were  
6 not even called, and perhaps one trip a day on the  
7 other days of the month. This does not seem to me  
8 to be a particularly heavy workload.

9 There was evidence before the Commission  
10 that at North Sydney there was at least one month when  
11 the only ship into the harbour was the WILLIAM CARSON.  
12 I am perhaps repeating this argument when I submit to  
13 the Commission that you cannot have pilots for only  
14 seven or eight months. If you have to have pilots  
15 you have to have them there for twelve months of the  
16 year. They have to be there when required in  
17 January, February and March. But, I have serious  
18 doubts whether twelve pilots are necessary at Sydney.  
19 But, where that amount of pilotage is necessary at  
20 any given point should not be determined by a little  
21 group, appointed by an agency which can take an  
22 objective look at the situation and see what is  
23 necessary.

24 THE CHAIRMAN: According to the law it  
25 is supposed to be determined by the minister at  
26 Ottawa. That is in the law. As to whether that  
27 is the fact ---

28 MR. DUNCAN: I do not pretend here to  
29 make any representations to you as to what is the fact.  
30 I think the Commission has determined what is the fact





1       itself.     But, there was some explanation by the  
2       Commission as to what is done at Yarmouth.     Now,  
3       that is not a pilotage commision, as the Commission  
4       knows.     There is quite a number of ships that go  
5       into and come out of Yarmouth.     There is a pilot  
6       there to take such ships as they show up and which  
7       require his services.     There are many other harbours  
8       in Canada where ships do show up from time to time  
9       requiring help, and they get it.

10               COMMISSIONER SMITH:     Mr. Duncan, coming  
11       back to this submission of yours and to the paragraph  
12       that I have quoted, and which contains the words  
13       "wholly exempt from pilotage dues", it would not matter  
14       how many pilots were around Sydney -- whether there  
15       were ten or a hundred -- if your ships were exempt.  
16       According to what you propose you would then pay  
17       nothing.     Are you prepared to pay anything towards  
18       this insurance?

19               MR. DUNCAN:     Well, it is all right, I  
20       would suggest, insuring against something that cannot  
21       happen, or which has not happened in our experience  
22       for at least ten years.     It would be paying an  
23       insurance premium against a day that some decision  
24       might be taken to alter the policy.     I would suggest  
25       that with respect to these ships at least nothing is  
26       required, and, therefore, no pilotage should be paid.

27               I do not take the same position with  
28       respect to charter vessels.     If we charter vessels  
29       certainly it may be that if these vessels are of a  
30       type that pilotage may be required, and then if





1 compulsory pilotage is determined to be a necessity  
2 then we should pay to maintain pilots at that point,  
3 but I do not think that any vessel ---

4 COMMISSIONER SMITH: Would there be suf-  
5 ficient revenue in the harbour and district to provide  
6 a service for chartered ships if we eliminate your  
7 own ferries?

8 MR. DUNCAN: I do not know, sir, but I  
9 am wondering if that should be a consideration,  
10 because pilots are not being provided for those ships.  
11 The evidence before the Commission is that the pilots  
12 that are there are sufficient in number to staff the  
13 bridge of the Canadian National vessels, but the  
14 experience has been that they have not been required  
15 for ten years, and I do not see the necessity for  
16 that service.

17 COMMISSIONER SMITH: I am not arguing  
18 the matter. I am trying to get the low-down on the  
19 thing.

20 MR. DUNCAN: I believe that pilots are  
21 necessary at Sydney, but I do not think that pilots  
22 are necessary at Port aux Basques.

23 THE CHAIRMAN: I think it is quite clear  
24 that they are not necessary within the meaning of  
25 safety. There is only one question, and that is  
26 whether the payment by all the users of the harbour  
27 is necessary to maintain the service. That, I think,  
28 is the only question.

29 MR. DUNCAN: Of course, that is one of  
30 the questions that is going to concern the Commission









1 in its deliberations after these sittings are over.  
2 I do not think I can add anything to what has been  
3 already said.

4 THE CHAIRMAN: I think it is this  
5 board and the other board at Port aux Basques -- those  
6 are the only two ports in Canada where the ferry  
7 service is used?

8 MR. DUNCAN: By the Canadian National.

9 THE CHAIRMAN: Well, in British Columbia  
10 you have quite a few, and none of them are paying,  
11 and then you have in Saint John, New Brunswick, the  
12 CPR, who are not paying.

13 MR. DUNCAN: They are not paying?

14 THE CHAIRMAN: No, except when they take  
15 the pilot. It is only a question of maintaining the  
16 service.

17 MR. DUNCAN: I would make this one  
18 further submission to the Commission, and say that  
19 this is a further example of the discrimination against  
20 the Canadian National.

21 THE CHAIRMAN: Imperial Oil has said  
22 there is discrimination because they are not paying  
23 on the west coast, but they are paying on the east  
24 coast. This is not discrimination because the east  
25 coast ports need more money to maintain the service  
26 than the west coast ports. Apparently that is  
27 the case from what we have heard.

28 MR. DUNCAN: Since I do not know what the  
29 evidence is in that regard I must leave that to the  
30 Commission as well.





1 THE CHAIRMAN: Thank you, Mr. Duncan.  
2 We shall adjourn now until tomorrow morning at ten  
3 o'clock.  
4

5 ---Whereupon the hearings adjourned at 5.00 p.m.  
6 until 10.00 a.m., Wednesday, January 13, 1965.  
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# ROYAL COMMISSION

ON

## PILOTAGE

### HEARINGS

HELD AT

TORONTO

VOLUME No.:

162

DATE:

Jan. 13, 1910

**OFFICIAL REPORTERS**

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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held  
within the Supreme Court Build-  
ing, Wellington Street, Ottawa,  
Ontario, on Wednesday, the 13th  
day of January, 1965.

THE COMMISSION:

The Honourable Mr. Justice Bernier	-- Chairman
Mr. Robert K. Smith	-- Member
Mr. Harold A. Renwick	-- Member
Mr. Gilbert Nadeau	-- Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	-- for the Shipping Feder- ation of Canada
Mr. Marc Lalonde	-- for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of the Montreal Harbour Pilots; Corporation of the Mid-St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. R. Langlois	-- for the Canadian Merchant Service Guild
Mr. J.J. Mahoney	-- for the Dominion Marine Association
Mr. R. Macgillivray	-- for the Department of Transport





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M/rps

1 --- Upon commencing at 10:05 a.m.

2  
3 THE SECRETARY: My lord, at this  
4 time I should like to file on behalf of Kent Line  
5 Limited and Irving Oil Company Limited and Irving  
6 Refining Limited their written pleadings which were  
7 submitted some time ago to the Commission and  
8 were given as a brief number, No. 50. It is recorded  
9 in the index under that number, under Exhibit No.  
10 1437.

11  
12 --- EXHIBIT NO. 1437: Written pleadings of Kent  
13 Line Limited and Irving Oil  
14 Limited and Irving Refining  
Limited.

15 THE SECRETARY: As well, my lord, I  
16 should like to file the reply to this submission of  
17 Kent Line submitted by the pilots of the St. John's  
18 Pilotage District, which was submitted recently and  
19 will bear Exhibit No. 1438.

20 THE CHAIRMAN: The rebuttal?

21 THE SECRETARY: Rebuttal or reply.

22  
23 --- EXHIBIT NO. 1438: Rebuttal to Exhibit 1437 by  
24 St. John's Pilotage District.

25 THE SECRETARY: The first Exhibit,  
26 1437, has already been circulated, while the reply  
27 from the St. John's pilots has not been distributed  
28 outside of the Commission.

29 On the roll today, my lord, we have  
30







1 Captain Norman S. Johnston who wishes to address the  
2 Commission briefly by way of final argument or plead-  
3 ings. He is to be followed by counsel for the  
4 Canadian Merchant Service Guild, Mr. Leopold Langlois,  
5 Q.C.

6 THE CHAIRMAN: We have received also  
7 the written pleadings of Captain Johnston, so there-  
8 fore we might as well give it a number right away.

9 THE SECRETARY: Very well, sir. It  
10 will bear Exhibit No. 1439.

11  
12 --- EXHIBIT NO. 1439: Written pleadings of Captain  
13 Norman S. Johnston.

14 THE SECRETARY: Captain Johnston?

15 CAPTAIN NORMAN S. JOHNSTON: My lord,  
16 Commissioners, gentlemen: I have prepared a final  
17 argument or pleadings and, sir, I believe it has  
18 been distributed. But if it is your wish, sir, I  
19 would like to go over it item by item this morning.

20 Gentlemen, I have witnessed first-  
21 hand from October 3rd to December 18th, 1964, as  
22 master of the lake steamer DOLOMITE of Hamilton,  
23 Bermuda registration, the bureaucratic pilotage  
24 monopoly in Great Lakes pilotage imposed on Great  
25 Lakes vessels of British or British Colony regis-  
26 tration.

27 No. 1, these British-registered  
28 lake vessels are manned by Canadian officers and  
29 crews and are paying Canadian union wages.

30 2. The masters of these ships are





1 Canadians with Canadian Great Lakes masters' certifi-  
2 cates or better and, saying the least, are as capable  
3 as any registered pilot and a number of them have  
4 higher qualifications and many more years of exper-  
5 ience in Great Lakes pilotage, but are not among the  
6 pilotage monopoly of registered pilots.

7 3. Adding insult to injury, we are  
8 told that we must have an inferior B licence in  
9 addition to what we now hold to pilot our British-  
10 registered Great Lakes vessel on the undesignated  
11 waters manned with Canadian Great Lakes officers and  
12 crews. I question the legality of that legislation.  
13 Surely it cannot be truthfully said an inferior  
14 B licence makes us better pilots.

15 My lord, if I may, I would like to  
16 refer now to the amendment of The Canada Shipping  
17 Act, an Act to amend The Canada Shipping Act  
18 assented to on August 1st, 1960. This was referred  
19 to yesterday in part by Mr. Baldwin when he mentioned  
20 the registered pilot and how the registered pilot  
21 could be defined. I think that that, my lord,  
22 certainly should be looked into and I am sure you  
23 will, you and the Commissioners, before you come  
24 up with your final recommendations.

25 That is on page 2 of this amendment,  
26 and on page 2, item 375(b) it is headed "Registered  
27 pilots and qualified officers to be employed in the  
28 Great Lakes Basin: (1) notwithstanding anything

29 in Part VI, no owner or master of  
30 a vessel of 250 gross tons and over





1 "shall operate his vessel:

2 "(a) in designated waters of the Great  
3 Lakes Basin unless the vessel is  
4 piloted by a registered pilot or

5 "(b) in waters of the Great Lakes Basin  
6 other than designated waters unless  
7 the vessel has on board (1) a registered  
8 pilot, (2) an officer having the  
9 qualification prescribed by the  
10 Governor-in-Council, or (3) a person  
11 holding a pilot's licence to navigate  
12 those waters issued by the Government  
13 of the United States."

14 I come back, sir, to this B licence  
15 which I have just referred to in No. 3 of those  
16 final pleadings of mine, that I do, sir, have the  
17 qualifications and many more have the qualifications.  
18 We have passed those examinations as Great Lakes  
19 masters or superior licences and have served for  
20 many years as a Great Lakes master -- which is also  
21 a pilot, as far as the Great Lakes are concerned.

22 So I question the legality of the  
23 legislation of the inferior B licence to say that I  
24 cannot pilot a ship on the Great Lakes without the  
25 necessity of this inferior B licence.

26 No. 2 on the same page, "Exemptions  
27 by the Minister." The Minister may upon such items  
28 and conditions as he deems advisable exempt any  
A2 29 owner or master from the requirements of Section 1.

30 May I suggest to you, sir, and the







1 Commissioners that some sort of exemption should be  
2 recommended to these British-registered Great Lakes  
3 vessels with Canadian officers and crews.

4 To continue on now with No. 4, it  
5 makes one wonder how ridiculous pilotage on the  
6 Great Lakes can get. Many non-registered pilots  
7 have spent ten, twenty, thirty and more years as  
8 masters of lake vessels sailing on these designated  
9 and undesignated pilotage areas of the Great Lakes  
10 and connecting waters.

11 I believe it is unconstitutional  
12 to deny these Great Lakes master mariners the right  
13 to pilot their own ships on the Great Lakes, where  
14 they have sailed for many years, British-registered  
15 or not.

16 6. I believe it is a serious  
17 infringement upon the human rights and liberty of  
18 the Great Lakes master mariners to not allow them  
19 to pilot ships of British register on the Great  
20 Lakes and connecting waters.

21 7. It has been said by some of the  
22 registered pilots that they do not consider themselves  
23 second-class North Americans. Those of us who are  
24 masters of British-registered lake vessels wonder  
25 if we are considered citizens at all or just forty-  
26 second cousins.

27 No. 8 -- Put an end to totalitarian  
28 methods and give equality to all men with equal  
29 qualifications, ability and experience.

30 9. Pilotage on the Great Lakes should





1 be for the purpose of assisting the master and owners  
2 of ocean-going vessels in harbours, canals, rivers and  
3 confined areas, et cetera of the Great Lakes and  
4 connecting waters, where the master cannot be  
5 expected to know all these confined waters and to  
6 assist him, in whatever he is accustomed to, in  
7 pilotage around the world.

8 No. 10. I question the legality of  
9 pilotage being forced upon the masters and owners  
10 of Great Lakes vessels of British register that  
11 employ Canadian Great Lakes officers and crews and  
12 pay Canadian union wages. If this abuse is not  
13 stopped, it could have serious repercussion for  
14 Canadian sailors and a number of related industries.

15 If I may mention something now, my  
16 lord, in connection with No. 10, I do not think  
17 there is anything that could stop the owners of  
18 these vessels if the abuses are carried out -- stop  
19 them from putting British officers and crews aboard  
20 these vessels. This would put a large number of  
21 Canadian officers and crews out of work. That is  
22 another reason that I think this should be given  
23 serious thought, because of the possibilities that  
24 that could happen.

25 No. 11. Put an end to armchairing,  
26 featherbedding, monopoly, discrimination, exploit-  
27 ation, and bungling from all sources. Put an end  
28 to the ridiculous waste of manpower and money and  
29 make it unnecessary for British-registered lake  
30 vessels with Canadian Great Lakes officers and crews





1 to carry pilots anywhere on the Great Lakes and  
2 connecting waters.

3 13. Unnecessary pilotage charges  
4 could mean the difference of these ships operating  
5 or laying-up when the economic cycle turns down  
6 and throwing a large number of Canadian sailors  
7 and related industries out of work. I will file  
8 with the Royal Commission some of these absurd and  
9 unnecessary charges to lake vessels of British  
10 register. I would like to file that at the end,  
11 if I may, sir.

12 14. Restore freedom to the Canadian  
13 Great Lakes masters of British-registered lake  
14 vessels and allow the masters of these vessels to  
15 pilot their ships anywhere on these waters west of  
16 Kingston, Ontario and Cape Vincent, New York. This  
17 is what they have been accustomed to for many years.  
18 They must have the qualification, experience and  
19 ability to do this before they receive their appoint-  
20 ment as master by the owners and operators of these  
21 vessels.

22 15. Put an end to the sham of make-  
23 believe that the pilots now registered for pilotage  
24 on the Great Lakes and connecting waters are the  
25 only ones with the necessary qualifications,  
26 experience, ability and availability for pilotage  
27 on these waters.

28 Again, sir, I would like to make a  
29 few remarks here. Since 1959 there have been  
30 considerable delays to shipping on the Welland Canal







1 outside of Port Weller, outside of Port Colborne  
2 awaiting pilots -- no pilots available. I would  
3 like to say this, sir: no doubt there were no  
4 registered pilots available, but there were many  
5 pilots or many capable men who could have been  
6 brought in to help the situation temporarily, at  
7 least.

8               Ships have been delayed 24 to 48 hours.  
9 I have seen this from my home. As I think I said  
10 before, I live on the shore of Lake Ontario. I  
11 see from the east northeast to the west southwest  
12 and I see these delays. It just makes me wonder  
13 how inefficient this pilotage system will be allowed  
14 to get before changes are put into effect. Quite  
15 a number of men living in that area could have been  
16 asked to relieve these serious delays, but this was  
17 not done because we were not registered pilots.

18               At this time, sir, if I may, I would  
19 like to refer to the original brief and the supple-  
20 ment, on page 9, items 15 and 16. 15 is that the  
21 pilots now working in pilotage under temporary permit  
22 and not registered, including those over 65 years of  
23 age that have good health and eyesight, and those  
24 who have worked in the past with good records and  
25 would like to return to pilotage, should be the  
26 first to be considered.

27               I would also like to add here that  
28 when pilotage was set up under the present system  
A3 29 on the Great Lakes, the number of men who served for  
30 ten years -- perhaps some of them more; some of them





1 may be a little less -- were not taken into pilotage  
2 or were taken in under the condition that the work  
3 would only be temporary and they did not accept the  
4 work at that time. Those men under this system again  
5 were not brought in.

6 It seems to me they have seniority  
7 rights that should be considered. I believe, sir,  
8 those men should be given every thought when further  
9 pilotage is required, as it no doubt is required  
10 in this area.

11 16. Those desiring to enter pilotage  
12 service on the Great Lakes and connecting waters who  
13 have had three successful years as sailing masters  
14 on these waters are good potential candidates for  
15 these areas. They have already served an apprentice-  
16 ship of 15 to 20 years or more -- and that is quite  
17 an apprenticeship, sir. I think this should be  
18 given a lot of consideration.

19 I would like to refer to submissions  
20 of something along the same lines on page 2, item  
21 5: all Great Lakes master mariners with at least  
22 three full successful seasons as sailing masters  
23 on these waters who are desirous of registration  
24 and available should be registered with Great Lakes  
25 pilotage and brought into pilotage when required.

26 In connection with that, in this  
27 morning's Globe & Mail and yesterday's Gazette, you  
28 perhaps noticed, my lord and Commissioners, that  
29 there is an advertisement for ships' pilots in the  
30 area of the Great Lakes, Kingston westward, salary





1 up to fourteen twenty-five a month. I do not think  
2 this is the proper procedure. This has been the  
3 procedure in the past and that has a certain amount;  
4 it has been restricted.

5 At the bottom here it says:

6 "Those called to interview will be  
7 required to send testimonials from  
8 former employers as to conduct and  
9 competency."

10 I wonder, sir, if a lot of good men  
11 will not hesitate about applying to this ad because  
12 they may figure there is maybe only going to be  
13 five or six or seven or eight, or whatever it might  
14 be, taken in, and whether they would want their  
15 employers to know that they are interested in  
16 leaving their employ and going to pilotage. To me,  
17 that is restrictive.

18 I think the suggestion that I have  
19 made that with the three years as master or sailing  
20 master -- and I think those three years should be  
21 considered as three months or twenty-four full  
22 months -- and once a man has served that (he has  
23 served an apprenticeship of 15 or 20 years), certainly  
24 he should be considered for pilotage.

25 I go on now, sir, to No. 16 -- Restore  
26 freedom to pilotage, the freedom of this great  
27 country of ours and of that great country and good  
28 neighbour to the south of us. Give equality to  
29 all men with equal qualifications, ability and  
30 experience for the good of all concerned with pilotage.







1 Then, and then only will we have an efficient and  
2 economical pilotage system over the entire Great  
3 Lakes and connecting waters.

4 17. Put an end to protection of a  
5 pilotage monopoly so that it cannot fall behind the  
6 standards achieved in a competitive world. Then it  
7 must survive on its merits.

8 And sir, I would like to here make  
9 an addition to that -- which I should have at the  
10 time, but reading it over, I realize a proper safe-  
11 guard to stop any throat-cutting, et cetera, that  
12 might take place. Someone might ask me: "What  
13 would be the proper safeguards to stop throat-  
14 cutting, et cetera?" and I would say, sir, that the  
15 pilots belonging to the organization -- as the  
16 majority of these pilots seem to be in the organ-  
17 ization -- seems to me would be a safeguard to stop  
18 throat-cutting et cetera.

19 THE CHAIRMAN: By which means?

20 CAPTAIN JOHNSTON: Pardon, sir?

21 THE CHAIRMAN: How would that be  
22 achieved?

23 CAPTAIN JOHNSTON: Through their  
24 representation with the pilotage commission, sir,  
25 or whatever it is set up after your recommendations  
26 are sent in and accepted.

27 THE CHAIRMAN: We have the example  
28 of the place where pilotage was let free for a while.  
29 It was in British Columbia. The district was  
30 abolished in 1920 and for nine years it was free; it





1 was free competition. Apparently it was in terrible  
2 chaos there as the pilots would serve first their  
3 regular clients and let the odd client have a pilot  
4 only when the others would be satisfied, and things  
5 like that.

6 It was in such chaos that everybody  
7 from all quarters in 1928 requested that some change  
8 be made and the pilotage system with a monopoly was  
9 re-established.

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/rps

1 CAPTAIN JOHNSTON: I think, sir, an  
2 organization that has the majority of pilots is  
3 quite capable of looking after the protection of  
4 pilots. I think the seniority rights I have mentioned  
5 in my original brief on page 9, item 9, also cover  
6 this point.

7 Item 9 on page 9 of the original  
8 brief reads that:

9 "The seniority rights of pilots now  
10 established in these districts must  
11 be respected at all times and not  
12 encroached upon whatsoever."

13 So I am quite conscious of that fact,  
14 my lord. Certainly, it would not be an efficient  
15 organization if we had throat-cutting, so safeguards  
16 definitely must be put into this, but I feel the  
17 organization that represents the majority of these  
18 pilots -- and I think it should be only that organ-  
19 ization, because we have today in pilotage in the  
20 Great Lakes and connecting waters these pilots who  
21 are civil servants of a kind. There are two or  
22 three organizations, perhaps, but they can refrain  
23 from joining the majority, and by refraining from  
24 going along with the majority, sometimes they can  
25 and have taken restrictive measures which harm the  
26 majority picture -- which right should be allowed,  
27 of course, in a democratic country. However, I  
28 think this is wrong, and if one or two men want to  
29 stay out they can, and that is a democratic privilege.  
30 But under the Rand formula of Judge Rand, an organ-







1     ization will represent the majority, and I think  
2     the pilots' organization that represents the major-  
3     ity here should be their representatives so that the  
4     minority will not be able to divide and perhaps  
5     sometimes cause a division which does considerable  
6     harm.

7                   THE CHAIRMAN: But there will still  
8     be a monopoly in pilotage. Most single pilots could  
9     compete with the others.

10                   In paragraph 17 you said:

11                   " --- put an end to protection of  
12                   a pilotage monopoly, . . ."

13                   THE SECRETARY: It appears there might  
14     have been -- and I, of course, make it only by way  
15     of a suggestion to Captain Johnston -- a misprint  
16     in this paragraph, because it is nonsensical because  
17     it says something on the one hand and takes it  
18     out on the other. I wonder if the word "cannot"  
19     should have been written "can"? Do you mean to say:

20                   " --- so that it can fall behind  
21                   the standards achieved in a competitive  
22                   world," or as it is actually written?

23                   CAPTAIN JOHNSTON: I am concerned  
24     "so that it cannot fall behind the standards achieved  
25     in a competitive world."

26                   THE CHAIRMAN: In any event, when  
27     there is a monopoly there could be a tendency to  
28     lower standards. We have a monopoly and we rest on  
29     it. Therefore, no one can infringe on it. When  
30     there is competition, when everybody is trying to





1 do his best in order to have the work, there you  
2 have the higher standards in the competitive world.  
3 That is the gist of your paragraph 17?

4 ~~Captain Johnston: I am concerned~~  
5 with throat-cutting. I think the proper safeguards,  
6 whatever are necessary there, should be put in there.

7 I am also concerned about ships that  
8 are being delayed many, many hours through this  
9 inefficient organization that is set up at the present  
10 time.

11 THE CHAIRMAN: I do not know about  
12 in Part VI(a); I did not check that; but I know  
13 that elsewhere in Canada, under Section 357, when  
14 there is no pilot available at the E.T.A., when the  
15 ship arrives, any person could pilot. The only  
16 thing the ship has to do is to come to its E.T.A.,  
17 and when the ship arrives, if there is no pilot  
18 available to pilot the ship, anybody could  
19 pilot. The Section is Section 357.

20 CAPTAIN JOHNSTON: Yes, I have read  
21 that, but when the masters of these ships are told  
22 no pilot is available, then they will actually  
23 proceed on a driver or until pilots are  
24 available.

25 Are there any other questions? I  
26 want to make myself clear, and I am glad you are  
27 prompting me, sir.

28 I do not think there should be a  
29 pilotage monopoly. I think proper safeguards  
30 definitely should be put in there. Maybe I have not





1 worded this exactly as it should be worded; but I  
2 am sure that you, sir, and the Commissioners, if  
3 thought is given to this, will word it properly to  
4 see that protection is given.

5 COMMISSIONER SMITH: Captain, you  
6 mentioned the question of seniority applying and  
7 remedying a situation which is unsatisfactory, in  
8 your opinion, now.

9 His lordship has mentioned a situation  
10 where there was a free-for-all, dog-eat-dog system  
11 of pilotage in British Columbia in the early '20's.  
12 The question of seniority there would not remedy  
13 a situation there which was disastrous and unsatisfact-  
14 ory to all concerned -- ship, pilotage, public  
15 interest and everything else. Seniority did not  
16 enter it at all. It was, as I say, just a dog-eat-  
17 dog system.

18 CAPTAIN JOHNSTON: Definitely, seniority  
19 should enter into it; and also the delays to shipping  
20 should enter into this picture. There should not  
21 be any delays in shipping, and I think that the  
22 protection of those now working should be improved,  
23 and I am sure you will look into that matter.

24 THE CHAIRMAN: There is the question  
25 of free enterprise. Pilots like to call themselves  
26 free enterprisers. It was true, years ago when there  
27 was one Pilotage Authority, then pilots could compete  
28 against one another. This was really free enterprise  
29 at the time, and I think that 58 died from Quebec  
30 trying to get to the ship first.







1 So it was abolished after that. So, there are reasons  
2 for and against. I think the standard could have  
3 been better with some kind of competition, but the  
4 advantages and disadvantages have to be weighed, and  
5 we are glad you are bringing this subject up because  
6 we are going to review it.

7 CAPTAIN JOHNSTON: Thank you, sir.

BB2 8 I say again that I am certainly for  
9 safeguards to stop this throat-cutting, and I am  
10 sure that you and I, when we see the unnecessary  
11 delays that are taking place, realize this is not  
12 as it should be. Down in the St. Lawrence River  
13 District, I believe this does not take place, or  
14 very little of it, but we have considerable of it  
15 on the Great Lakes system, and I think this should  
16 be corrected.

17 Eighteen: No other profession, I  
18 am sure, would stand idly by and be told by a  
19 bungling bureaucracy that they cannot work at their  
20 profession, when it is connected with something  
21 British, registered in Britain, or in a British  
22 Colony.

23 Nineteen: Restore pilotage to the  
24 freedom of positive action and not restrictive, for  
25 efficiency and economy.

26 I think it is this restrictive action  
27 that has caused considerable of the delays on the  
28 Great Lakes and connecting waters.

29 I would now like to file and make  
30 a few remarks about the pilotage fees to vessels of





1 British register which, in my opinion, are unnecessary.  
2 I have five here, but there is one that stands out  
3 as being the most ridiculous, and if I may I will  
4 just speak about that, and I will file the others  
5 with Mr. Nadeau for your thoughts on this thing.

6 I have here, sir -- I will not mention  
7 the pilot's name, and I hope I do not mention his  
8 name as I go through -- it was our last trip on  
9 the steamer DOLOMITE. It took five and three-quarter  
10 days from Port Colborne. We were loading stone  
11 there for Fairport, Ohio, and then from Fairport  
12 to Goderich on the shore of Lake Huron, to load  
13 salt for Buffalo, and from Buffalo back to Port  
14 Colborne.

15 The designated areas there were the  
16 lock at Port Colborne -- and this dock is just  
17 below lock 8 -- to the Port Colborne breakwater.  
18 The undesignated waters there were from Port Colborne  
19 to Southeast Shoal. Then designated again from  
20 Southeast Shoal to Huron Lightship; and undesignated  
21 from Huron Lightship to Goderich and return.  
22 Designated back from Huron Lightship to Southeast  
23 Shoal, and undesignated from there to Buffalo; and  
24 Buffalo undesignated. Then back from Buffalo to  
25 Port Colborne, and we became in designated waters  
26 again from the breakwater to where we tied up in the  
27 outer harbour.

28 The total pilotage fees for that  
29 trip were \$855. The designated waters pilotage  
30 fee was \$455, and the undesignated waters \$400.





1                   The upbound from from Southeast  
2 Shoal to Huron Lightship took 13 hours, 53 minutes,  
3 and the downbound to Southeast Shoal was 13 hours and  
4 13 minutes, making a total of 27 hours and six minutes  
5 in the designated waters of that area. And then the  
6 in and out of harbour at Port Colborne was three  
7 hours, five minutes, making a total of 30 hours and  
8 11 minutes in the designated waters.

9                   The pilotage for the designated waters  
10 was \$455, and the total was \$855. To me this is  
11 ridiculous. The owner of that ship has a master and  
12 officers aboard her who are qualified for lake work,  
13 but because we are on a British-registered ship, we  
14 are told we cannot do it in these waters, so there  
15 is something wrong about this setup.

16                  I would like to say the pilotage  
17 salary, based on a 30-day month, at \$1,425 per month  
18 is \$47.50 per day; and I would like to mention this  
19 is a post-season where the pilot himself makes this  
20 extra pilotage fee after the "salties" have left the  
21 system. This is all to the pilot himself who  
22 does this pilotage work. His salary, based on his  
23 \$1,425 per month, is \$47.50 per day. If he received  
24 only the designated waters part of this pilotage  
25 fee, which was \$455, for five and three-quarter  
26 days his salary was \$79.13. But if it included,  
27 as it did in this case, both the designated and  
28 the undesignated waters of \$855, for five and three-  
29 quarter days on board his daily rate was \$148.69.

30                  That does not seem to me, my lord,







1 to be reasonable. I have suggested to my owners  
2 that they pay the \$455 in the designated waters,  
3 and I and they question the legality of this undesign-  
4 ated water pilotage, because it cannot be said I  
5 have not the qualifications.

6 Again, I would like to mention in  
7 the amendment to The Canada Shipping Act it says --  
8 No. 2 on page 2 of 375(b):

9 "A person having the qualifications  
10 prescribed by the Governor-in-Council."

11 I do not think it can be said I  
12 have not the qualifications if I have not a B licence.  
13 All that is required for a B licence, in my under-  
14 standing, is if an officer makes two trips up the  
15 lakes he is given a B licence or certificate.

16 I have been a master on lake vessels  
17 since 1928, and, certainly, my qualifications entitle  
18 me to do this work, which I did -- I did this work;  
19 the pilot did not do this work. My officers and  
20 myself did this work on the undesignated waters.  
21 When it came to the Southeast Shoal I said, "Pilot,  
22 this is what you are paid for, my friend. Go ahead  
23 and do it!" In fact, he asked me if he could go  
24 to Goderich with us. He hadn't been there for  
25 quite a long time, and I said, "It is agreeable  
26 with me, providing it is okay with the pilot office.  
B3 27 Check with them first." He checked with them, and  
28 he came to Goderich with us, and our company was  
29 billed for the undesignated waters and also for the  
30 dockage fee, and he did not dock at any time.





1                   The masters of these lake vessels are  
2     expected to do their own docking, and I am even  
3     billed for the docking and undocking in Goderich.  
4     And it looks to me it is Buffalo -- but, anyway,  
5     another docking and undocking fee, in Buffalo, I  
6     believe it is, which I did myself. The undesignated  
7     waters were done by myself and my officers. Again,  
8     I say there is something wrong with this setup, and  
9     I am sure you will look into this and give it  
10    every consideration.

11                   THE CHAIRMAN: With regard to the  
12    Great Lakes, I was saying a few minutes ago I  
13    did not know whether there was any provision similar  
14    to Section 354. I have found it. It is Section 375(b)  
15    (4), which says that you could dispense with the  
16    pilot when the master has been informed by the  
17    Deputy Minister of Transport that the pilot is  
18    not available. This may be quite difficult. The  
19    burden is on the master here, while in the other  
20    case the burden is on the pilot to show up.

21                   CAPTAIN JOHNSTON: The master is  
22    not told, "I can get you someone who is not a  
23    registered pilot."

24                   I am much concerned about these  
25    serious delays to shipping. I think for the good  
26    of our pilotage system, for the good of Canada and  
27    our Great Lakes system, these delays should be  
28    stopped.

29                   COMMISSIONER RENWICK: What is that  
30    docking and undocking fee?





1 CAPTAIN JOHNSTON: \$25 for docking  
2 and \$25 for undocking.

3 COMMISSIONER RENWICK: \$25 in and  
4 \$25 out?

5 CAPTAIN JOHNSTON: Yes, a total of  
6 \$125 for docking and undocking, undesignated; and  
7 a total of designated waters docking and undocking  
8 of \$100. But the docking fee is \$25 and \$25 out.  
9 All the docking was done by myself, not that these  
10 gentlemen are not capable, but the Great Lakes  
11 master is expected to do that, and he does that  
12 himself.

13 THE CHAIRMAN: You have this invoice.  
14 Are you going to file it?

15 CAPTAIN JOHNSTON: Yes, I think the  
16 invoice I will leave with Mr. Nadeau.

17 THE SECRETARY: May I suggest we  
18 give it No. 1439A, as it is referred to in the  
19 written submission of Captain Johnston.

20 No. 1439A is described as ---

21 THE CHAIRMAN: Examples of charges ---

22 THE SECRETARY: --- to lake vessels  
23 of British register on the Great Lakes.

24  
25 --- EXHIBIT NO. 1439A: Invoice as referred to in  
26 written submission of Captain  
27 Johnston re docking and undock-  
28 ing charges in designated  
and undesignated waters,  
respectively.

29 CAPTAIN JOHNSTON: The total docking  
30 charges for docking were \$75 and for undocking \$75,







1 a total of \$150 docking charges. Thank you very  
2 much, my lord and gentlemen. I am certainly apprec-  
3 iative of being able to express my thoughts again  
4 and of being afforded the opportunity to express  
5 my views before this Royal Commission.

6 THE CHAIRMAN: Thank you very much,  
7 Captain.

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1 MR. LANGLOIS: My lord and gentlemen  
2 commissioners, since we are still at the beginning of  
3 a new year, I am most happy to join with my learned  
4 friends who have preceded me with their addresses to  
5 this Commission in wishing to the members of the  
6 Commission and to the staff a Happy 1965. May the  
7 New Year bring to you all Health and Happiness --

8 THE CHAIRMAN: What about wisdom?

9 MR. LANGLOIS: My lord, this was included  
10 in my wish; and I wish also to add fortitude, because  
11 fortitude will be needed in the tremendous task that  
12 still lies ahead of this Commission.

13 No one can stress too much, I believe, the  
14 importance of work that you have undertaken. No one  
15 can stress too much, also, the vigor, the tenacity,  
16 with which you have started discharging this heavy  
17 burden of responsibility.

18 I am, unless I am mistaken, except for  
19 Counsel for the Commission, the only other Counsel who  
20 has accompanied this Commission from court to court.  
21 Since I have attended all your sittings but for a few,  
22 at which I was represented by a partner from my  
23 office, I have listened to most of the evidence which  
24 has been adduced before this Commission, and after  
25 having seen thus, this Commission at work throughout  
26 all Canada, I feel that the shipping industry and the  
27 pilots, as well, must be grateful that your lordship  
28 and gentlemen commissioners have been chosen to carry  
29 out the work of this Commission.

30 The results of this Commission will have





1 heavy and important consequences on the future of the  
2 shipping industry in Canada, and, since the shipping  
3 industry in Canada is so closely connected with the  
4 economy of the country - since Canada is particularly  
5 an exporting nation - the results achieved by this  
6 Commission will also be of great importance for the  
7 future of our country.

8 I wish, my lord, at the beginning of my  
9 remarks, to congratulate my learned friend, Counsel  
10 for the other parties, who have appeared before this  
11 Commission, for their co-operation, for their hard  
12 work and for the excellence of their participation,  
13 and particularly in the preparation of the pleadings  
14 of the addresses that they have delivered before this  
15 Commission during the course of the last week.

16 Finally, I beg your indulgence for appear-  
17 ing before you, after having suffered a very severe  
18 cold for the last few days and, for this reason, not  
19 being in the best of physical condition.

20 I will also beg your indulgence because,  
21 being the last of a long series of Counsel who have  
22 preceded me at this desk, after the presentation of the  
23 lengthy and well document addresses, I am afraid that  
24 it would be very hard for me to avoid repeating things  
25 that you have already heard. This cannot be avoided  
26 for another reason also, because I happen to represent  
27 pilots belonging to all the organized pilotage districts  
28 of Canada, as Counsel for the Canadian Merchant's  
29 Service Guild; and, although conditions vary greatly  
30 from one district to another, from the east to the west







1 coast, between the St. Lawrence and the Great Lakes,  
2 although these problems, the problems affecting pilots  
3 and pilotage and the shipping industry are not the same  
4 all over, just the same, there are problems of a  
5 similar nature affecting to the same degree, all the  
6 pilots of Canada.

7 For this reason, in order to avoid being  
8 repetitious, I am planning to divide my address into  
9 the two following parts: Part 1 will deal exclusively  
10 with specific problems affecting the individual  
11 districts which I represent here today; and I shall  
12 begin with the specific recommendations made by pilots  
13 and other parties in connection, first, with the  
14 pilotage districts on the West Coast of Canada, the  
15 British Columbia Coast Pilotage District and the New  
16 Westminster-Fraser River Pilotage District.

17 Then I will go on with the specific  
18 recommendations made by pilots of the Maritime  
19 Provinces, starting with Saint John, New Brunswick, then  
20 St. John's, Newfoundland, Sydney, Halifax and other  
21 odd ports where local Commissions are, or have been,  
22 in existence for some time.

23 Then, always dealing with Part 1, being  
24 the specific recommendations, I will discuss the  
25 problems or recommendations made in connection with  
26 pilotage on the St. Lawrence River. In this connection,  
27 my lord, I will briefly comment only on the specific  
28 recommendations made by the Federation of St. Lawrence  
29 River Pilots, since my learned friend, Mr. Lalonde,  
30 has covered that field so thoroughly and so ably in





1 the past two and a half days of this period of  
2 pleadings.

3 Then I will go on to the specific  
4 recommendations outlined in the brief introduced by  
5 the Canadian Merchant Service Guild.

6 Part 2 of my address will deal with  
7 general recommendations, consequently recommendations  
8 of general interest to all pilotage districts in  
9 Canada.

10 Under Part 2, I shall deal, first, with the  
11 general recommendations contained in the brief presented  
12 by the Canadian Merchant Service Guild; and, secondly,  
13 with the recommendations made concerning the administra-  
14 tion and operation of pilotage in Canada by the  
15 Federation of St. Lawrence River Pilots and the other  
16 pilotage districts of Canada, the Shipping Federation,  
17 the Dominion Marine Association and the Vancouver  
18 Chamber of Shipping.

19 In Part 1 of my address, I will first deal  
20 with Brief No. 10, which is the Brief presented to this  
21 Commission by the pilots of the British Columbia Coast  
22 Pilotage District. In that brief, the pilots of the  
23 Coast of British Columbia have recommended that more  
24 authority be given locally for the solution of problems  
25 which can be dealt with more efficiently, more rapidly,  
26 at the local level.

27 This recommendation is amply warranted,  
28 first, by the great distance separating Vancouver from  
29 Ottawa and the unavoidable delays in communications.  
30 It has been established in the evidence adduced before







1 this Commission that, due to these unavoidable delays  
2 in obtaining the solution of problems quickly from  
3 Ottawa, that the problem has been allowed to grow out  
4 of proportion and, at times, to reach a stage where a  
5 solution was almost impossible.

6 It has been submitted to this Commission  
7 that if the local authority had been empowered to  
8 settle the problems as they arose, situations which  
9 have developed to the point of being detrimental to  
10 the shipping industry and to the pilots would not have  
11 arisen.

12 In the same brief, my lord, the pilots of  
13 the Coast of British Columbia oppose the movement to  
14 restrict the earnings of pilots of their district, for  
15 the reasons that pilots have never enjoyed, and are  
16 not enjoying today, guaranteed earnings, and that  
17 periods of greater earnings are justified because they  
18 can only be realized by increased work on their part.

19 Pilots have run in the past, and are still  
20 running, the risk of reduced traffic and, therefore, of  
21 reduced earnings, and, consequently, are opposed to  
22 any form of arbitrary dealings upon their earnings.

23 Examples of these, what I would call, lean years, were  
24 given in the evidence adduced before this Committee.

25 I might add that this evidence was contained in a  
26 short memorandum presented to the Honourable Leon  
27 Balcer in the early Winter of 1961, when the Regional  
28 Pilots Committee came up to Ottawa to meet him in  
29 connection with the intention of the Department - the  
30 idea, presumably, coming from the Treasury Board - to







1 have pilots share in the cost of the administration and  
2 operation of pilots; and in this memorandum to the  
3 Honourable Minister at the time and in the evidence  
4 adduced before this Commission, the example of this  
5 situation which occurred during the last War on  
6 the West Coast was stressed.

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1                   During these War years, my lord, as you  
2 will recall, the earnings of the pilots were so low  
3 that some of them had to sell their homes in order to  
4 meet their family obligations. Their earnings were so  
5 low that some had to quit altogether and find work  
6 elsewhere and those, the majority of them, who stayed  
7 with pilotage had to do - probably it is an expression  
8 which, in the labour field now, has meaning, but which  
9 is not accepted everywhere - they had to resort to  
10 "moon-lighting" to compensate for the decrease in their  
11 income, and in taking jobs outside of pilotage in work-  
12 ing nights at hard jobs to make both ends meet.

13                   The other day, my lord, when I was listen-  
14 ing to the argument presented by my learned friend,  
15 Counsel for the Vancouver Chamber of Shipping, he was  
16 discussing the so-called target income, this guarantee  
17 of a certain level of earnings of the pilots. I was  
18 very tempted to ask him if at that time during the War  
19 years the industry were thinking of a target income, of  
20 such a target income for the pilots who were then out  
21 of work, or who had to work at a rate of almost  
22 starvation earnings.

23                   The pilots of the Coast of British Columbia  
24 also recommend to your Commission that whenever two  
25 pilots are used on a ship that double pilotage dues  
26 should be paid. As it is, as your lordship will recall,  
27 when two pilots are used on the West Coast, only one and  
28 a half dues are being paid nowadays.

29                   This practice, my lord, of using two  
30 pilots on certain trips is established in the schedule





1 of the by-law of the British Columbia Pilotage District  
2 General By-laws. By the way, my lord, I open this page  
3 here to show to your Commission the state of the by-laws  
4 of the West Coast. These by-laws have been amended over  
5 the years, but apparently there has been no reprint for  
6 quite some time. I do not know how the pilots fare with  
7 it. For a layman, not acquainted with the problems of  
8 the district, not acquainted with pilotage in general,  
9 it is quite a task to find oneself amongst this mess of  
10 amendments over amendments pasted in an old print of the  
11 by-law which is dated to June, 1960.

12 THE CHAIRMAN: I have two remarks here:  
13 maybe the pilots' Committee is too active over there  
14 and, secondly, I think there is a re-vamping going on  
15 right now.

16 MR. LANGLOIS: Well, that is all right, my  
17 lord.

18 This, I will say, my lord, that the use of  
19 two pilots on some lines is done by virtue of the  
20 schedule to the by-laws, the section to the schedule  
21 under the title of "Extended Duties", which reads as  
22 follows:

23 "Two pilots shall be employed in piloting a  
24 vessel when (a) the vessel requires the services  
25 of a pilot for a continuous period in excess of  
26 eight hours on a voyage to or from a point north  
27 of latitude 50 north; or (b) the pilotage author-  
28 ity is of the opinion that the circumstances  
29 warrant it".

30 I do not know if I misunderstood my learned







1 friend the other day, Counsel for the Chamber of Shipping,  
2 but I was left under the impression that he contended  
3 that the pilots had the final say about the use of one  
4 or two pilots on such trips. This is certainly contrary  
5 to the wording I have just quoted from the By-law, and  
6 for these trips which do not last more than eight hours,  
7 it is the pilotage authority itself which decides whether  
8 or not two pilots should be used.

9 THE CHAIRMAN: Excuse me; there is a  
10 distinction here. You have to distinguish between the  
11 northern part and the southern part. The pilotage  
12 authority is only for the southern part. Say, for  
13 instance, a trip from Broatchie Ledge to Vancouver,  
14 normally it would take less than eight hours, but very  
15 often it takes more than eight hours. So, let us say,  
16 on a very small ship, then the pilotage authority in  
17 Ottawa will decide that in this case they will have to  
18 have two pilots.

19 MR. LANGLOIS: That is quite right, my  
20 lord.

21 Under the same recommendation, my lord,  
22 the argument has been advanced that with modern, faster  
23 ships, the Kitimat run, for example, would not exceed  
24 the eight hours mentioned in the by-law. Another reason  
25 which was also given during the pleadings of counsel for  
26 the Chamber of Shipping and the Aluminum Company of  
27 Canada the other day, Mr. Bird, was that following  
28 some dredging recently done again this run was cut to  
29 less than the required eight hours for two pilots.

30 I am informed, my lord, that this is not so





1 and I refer your lordship to the length of the Kitimat  
2 run ---

3 THE CHAIRMAN: Excuse me. You say it is  
4 not so, with regard to the dredging or the length of  
5 the ---

6 MR. LANGLOIS: The dredging. First, with  
7 regard to the dredging, I am told that the dredging  
8 does not affect the length of the run at all.

9 THE CHAIRMAN: It is because they were  
10 obliged to wait at anchor over there for the tide on  
11 account of limited draught and now this will not be  
12 necessary any more because at the end of the arm there,  
13 they can go to the pier right through. Now they do not  
14 have to wait for the tide.

15 MR. LANGLOIS: I understand, my lord, that  
16 this advantage is practically nil, and that even though  
17 the ship sometimes can negotiate the distance in less  
18 than eight hours, it is common for the ship to have to  
19 wait because there is no docking space at Kitimat on  
20 arrival.

21 THE CHAIRMAN: For instance, they have one  
22 pier, one place for one ship and dolphins.

23 MR. LANGLOIS: That is correct. In connect-  
24 ion with the time of the run up to Kitimat, I would like  
25 to refer your lordship and the commissioners to exhibit  
26 137. I wish to draw your attention to a vessel in  
27 particular, the SUNHEIN.

28 This vessel, according to exhibit 137,  
29 called at Kitimat four times in 1962. On number one  
30 trip, the inward passage took eight hours and fifty four





1 minutes; the outward passage, seven hours and fifty-two  
2 minutes. On trip number two, the inward passage took  
3 nine hours and forty two minutes; the outward passage,  
4 seven hours and forty seven minutes. On trip number  
5 three, the inward passage took sixteen hours and thirty  
6 four minutes; the outward passage, nine hours and thirty  
7 minutes. Finally, on trip number four, the inward  
8 passage took fifteen hours and forty five minutes and  
9 the outward passage took nine hours.

10 I contend, my lord, that this exhibit shows  
11 clearly that it is impossible to predict in advance with  
12 any accuracy at all, the time that will be spent by any  
13 ship to transit the Kitimat passage.

14 Now, my lord, I go on to recommendation  
15 number 4, in which the pilots of the coast of British  
16 Columbia claim that the pilot boat in Prince Rupert is  
17 both inadequate and unsafe and, consequently, recommend  
18 that it should be replaced.

19 In this respect, I am instructed that since  
20 the Commission visited Prince Rupert, sketches prepared  
21 by one Mr. Thorn - who I understand is a C.S.I., Canadian  
22 Steamship Inspection man in Toronto - have been sub-  
23 mitted to the pilots.

24 The pilots have approved the general  
25 arrangement as shown in these sketches and also the  
26 equipment which is to be fitted on that ship. The only  
27 comment which they made was that the full speed of  
28 eleven knots was not enough. I am instructed again that  
29 they were told that if the speed was to be increased,  
30 the proposed pilot boat probably would have to be made







1 longer and probably with deeper draught.

2           However, nothing apparently has been heard  
3 further about this boat since, except for a letter which  
4 was addressed to Captain J. L. McKay, President of the  
5 Corporation of the British Columbia Coast Pilots under  
6 date of January, 1965, from one of the pilots, Captain  
7 McLeese, who, again, stressed the importance of having  
8 a suitable boat to replace the present pilot boat at  
9 Prince Rupert. I think the Commission will be inter-  
10 ested in the contents of this letter from Captain  
11 McLeese, and I quote:

12           "On the 16th December, 1964, I was dispatched  
13 to take the M.V. VINSTRA to sea from Prince  
14 Rupert at 20:00.

15           "I arrived in Prince Rupert at noon and at  
16 that time the weather was very bad. The  
17 weather broke early in the afternoon and the  
18 ship was ready to sail at 18:00 hours. I  
19 was taken off the ship at Triple Island by  
20 Armour tug, PHIPPEN, at 20:00 hours. By this  
21 time the weather had again deteriorated and  
22 the wind was from the north-east at about  
23 30 miles per hour. Icing conditions were  
24 extremely bad as the temperature was only  
25 slightly above zero. As this vessel had  
26 only about sixteen inches freeboard, I felt  
27 that at that particular time she was not fit  
28 to be out in the open under such conditions.  
29 At 22:00 we were back in the shelter of  
30 Metlakatla Pass in blizzard conditions. This





1 three or four hour break in the weather was  
2 the only time the PHIPPEN could have gone  
3 out in a seventy-two hour period.

4 "A year or two ago, Armour had three boats  
5 licensed to carry pilots. Now I understand  
6 this is the only one, and I feel that there  
7 might possibly be times when pilots would  
8 refuse to travel on her when weather con-  
9 ditions are not favourable."

10 I think this letter, my lord, shows that  
11 the necessity of a new boat at Prince Rupert is an  
12 urgent one.

13 Now, my lord, I come to recommendation 5,  
14 and, since the contents of this recommendation are of  
15 a general nature and will be dealt with under Part 2 of  
16 my address when I deal with the administration of  
17 pilotage in general, I will skip it for the time being  
18 with your leave.

19 I come to recommendation number 6, which  
20 is of the same nature, and would deal with that in Part  
21 2 again.

22 Then, I pass on to recommendation number 7,  
23 which reads that pilots' expenses, wherever incurred  
24 while on duty, should be borne by the shipping industry.

25 As your lordship will recall, the evidence  
26 is to the effect that the shipping industry bears all  
27 expenses in connection with movements of pilots for  
28 trips north of the 50th degree of northern latitude and  
29 also on the West Coast - trips to the West Coast or  
30 Vancouver Island. But, for the trips south of the 50th





1 degree of northern latitude, the pilots bear their own  
2 travelling expenses. I should add an exception to this  
3 is when the pilots are taken across the border into the  
4 States, into U.S. ports, where there is what they call  
5 a border crossing charge of \$60.00, which I understand  
6 is a fixed charge.

7 THE CHAIRMAN: For Puget Sound?

8 MR. LANGLOIS: Yes.

9 THE CHAIRMAN: And this includes the pilot-  
10 age fees also. Part of it only is expenses.

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4/rps

1 MR. LANGLOIS: In connection with  
2 these expenses, my lord, I wish to refer you to  
3 Exhibit 197, which is a bundle comprising the  
4 report of revenues and expenses of the districts  
5 covering the period from 1958/59 to the year 1963,  
6 inclusively; and I wish to refer your lordship to  
7 the statement referring to expenses for the year  
8 1962, to give but one example of these expenses  
9 borne by the pilots. Under the heading of "revenue"  
10 you have the expenses collected from agents, Schedule  
11 A(7)(1), in the amount of \$47,443.36. Under the  
12 heading of "Expenditures," you have pilots' expenses,  
13 and the amount is \$236,806.57. Therefore this  
14 indicates, my lord, that the difference between  
15 the total expenditures incurred by pilots, in the  
16 amount of \$236,806.57, and the amount of the reimbur-  
17 sement by the shipping industry of \$47,443.36, is  
18 borne by the pilots, or pretty close to \$200,000.

19 I must add, however, my lord, that  
20 years back -- and this is borne out in evidence --  
21 years ago the rates for runs south of the 50th  
22 degree of northern latitude included an item to  
23 cover such expenditure. It was not what I should  
24 call an item; it was an ingredient. There was  
25 an ingredient included in the rate to cover such  
26 expenditures on the part of the pilots; but this  
27 was years ago, and the expenditures have increased  
28 so much now that this ingredient bears no relation  
29 to the out-of-pocket expenses incurred by the  
30 pilots. With the result that any increase in the





1 travelling expenses of the pilots means a correspond-  
2 ing and equivalent decrease in their net earnings,  
3 and this is a situation which the pilots are recommend-  
4 ing be corrected by Recommendation No. 7.

5 THE CHAIRMAN: On this I have a  
6 few remarks. It might be well that it be borne  
7 by shipping in general, but not by one partnership,  
8 it seems to me. It is the duty of the pilot to make  
9 himself available, and if for questions of organization  
10 he prefers to have but one pilot station, let  
11 say, in Vancouver, ships calling at other ports  
12 would be obliged to pay travelling expenses. Normally,  
13 pilots should be stationed in every port. In the  
14 case of any port, except the three where there  
15 is a pilot station, why would there be discrimination  
16 against them because they were not chosen as a  
17 pilot station? You have three now: Nanaimo,  
18 Vancouver and Victoria. Why not elsewhere? Why  
19 those three? Why should ships calling at other  
20 ports pay for that? I think it is a question of  
21 administration that should go into the tariff and  
22 be shared all across by the ships and not by ships  
23 calling at, let us say, Ocean Falls, Duncan Bay,  
24 Chemainus and other places.

25 MR. LANGLOIS: In this connection  
26 I am reminded the ships are plying between these  
27 ports, and if we have more stations with resident  
28 pilots -- I think that is what your lordship had  
29 in mind?

30 THE CHAIRMAN: I say it is a question





1 of internal administration, and I do not think one  
2 partnership calling at Chemainus should always pay  
3 travelling expenses, whereas a ship calling at  
4 Nanaimo should pay no travelling expenses?

5 MR. LANGLOIS: I see your point,  
6 my lord, and there is no quarrel on this at all.

7 Perhaps I am repeating myself, but  
8 I think I should add that this ingredient which had  
9 been included in the tariff has never been adjusted.

10 Now, my lord, I come to Recommendation  
11 No. 8, that pilotage dues should be computed on the  
12 basis of the maximum gross tonnage of any ship.  
13 My lord, this is in order to avoid the difficulties  
14 which are experienced not only in the British  
15 Columbia coast Pilotage District, but in all  
16 districts in ascertaining the exact tonnage of the  
17 ship, but this recommendation is now subject to the  
18 other recommendation which will be dealt with later,  
19 and which is included in the brief, as your lordship  
20 will recall, of the Canadian Marine Service Guild,  
21 where it is recommended that endeavours should be  
22 made to find a formula through which we could  
23 use rather more readily ascertainable physical dimen-  
24 sions of the ship rather than tonnage.

25 THE CHAIRMAN: A unit which could be  
26 used all across, and in that District should be  
27 two units or three units, and the others according  
28 to the needs, and not changing from one type of  
29 computation to another type when you cross the  
30 border from one district to another, and the unit







1 will be the same all across Canada, but it is only  
2 a question of how many units or parts of units  
3 could be charged.

4 MR. LANGLOIS: I come now to the  
5 last recommendation in this brief, and I will briefly  
6 deal with that, because the matter is also settled  
7 now, so I was instructed and informed yesterday.

8 As your lordship will recall, the  
9 pilots of the British Columbia coast Pilotage District  
10 wanted to revise the present administration of  
11 their pension fund in entrusting the administration  
12 of the fund to a private trust company.

E2 13 They had applied over a year and a  
14 half ago, almost two years ago, to the Department  
15 for permission to transfer their pension fund to  
16 such a private trust company, and after several  
17 representations they were informed, after the  
18 Department of Transport had consulted with the Depart-  
19 ment of Justice, that this required an amendment  
20 to The Canada Shipping Act.

21 The matter was taken up again with  
22 both the Department of Justice and the Department  
23 of Transport by your humble servant in the spring  
24 of this year, and it was suggested that if the  
25 pilots could obtain the written consent of all the  
26 active pilots to that effect, that might be  
27 sufficient to obtain the necessary authority from  
28 the Department of Transport without amending The  
29 Canada Shipping Act. However, when this agreement  
30 or consent in writing was obtained -- and it was





1 readily obtained, without any difficulty, and quite  
2 rapidly, because all the pilots were willing and  
3 welcoming this change -- and when the Department  
4 of Transport apparently sent this to Justice, Justice  
5 came back with the same reply, that it still needed  
6 the authority of Parliament. I do not know, and  
7 I have not seen the correspondence exchanged between  
8 the two Departments, but I am informed this was  
9 construed as meaning that the Department of Justice  
10 still wanted an amendment to The Canada Shipping  
11 Act.

12 Now the situation has been clarified,  
13 and I am informed that a letter has been dictated  
14 and, possibly, is in the mail to me now, to the  
15 effect that what was meant by "the authority of  
16 Parliament" was not necessarily an amendment to  
17 The Canada Shipping Act, but that such authority  
18 should be obtained by a vote in the Estimates, in  
19 the Budget, and the Department of Transport is  
20 apparently going to put such an item in the current  
21 budgetary estimates in the present session, and  
22 this should settle the problem.

23 THE CHAIRMAN: It is a very thorny  
24 question on account of all the persons concerned,  
25 the acquired rights and responsibility of the Crown  
26 as trustee for the monies, with the strait-jacket  
27 of the law now. In any event, it was done in  
28 New Westminster, but I do not know how legal it was.  
29 Personally, I would question its legality but,  
30 in any event, I do not think anybody is suffering





1 from it now.

2 MR. LANGLOIS: Perhaps at this point

3 I could ask for a recess?

4 THE CHAIRMAN: Right. We will adjourn  
5 for ten minutes.

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7 --- A short recess.

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1 My lord, I now carry on with the recommenda-  
2 tions of the British Columbia Coast Pilots, recommenda-  
3 number 9, "Moveage charges should be commensurate with  
4 the added responsibility of moving larger ships".

5 In this connection, my lord, I wish to  
6 inform the Commission, although probably the Commission  
7 has been informed of this - but in case it has not -  
8 that agreement was reached in this respect in June,  
9 1964, as between the pilots and the shipping industry -  
10 the Vancouver Chamber of Shipping - agreeing to the  
11 following new rates: For vessels not exceeding 7,000  
12 gross tons, \$54.00, and for vessels exceeding 7,000  
13 gross tons, \$2.00 for each additional 2,000 tons or  
14 part thereof.

15 However, I hasten to add that even although  
16 this agreement was reached in June last and the rates  
17 have been in effect since then, the by-law has not as  
18 yet been amended.

19 Now, this recommendation must also be read,  
20 my lord, I respectfully submit, in conjunction with the  
21 recommendation made in the brief of the Canadian  
22 Merchant Service Guild, with which I will deal later,  
23 which recommendation deals with standard rates for  
24 moveages and the detention charges across Canada.

25 Now, my lord, I come to another recommenda-  
26 tion which is not numbered, but which has been made  
27 already during the hearings in Vancouver, regarding the  
28 use of portable radios - radio telephones - by pilots.  
29 Reference was also made to such use at the hearings  
30 of the Commission in June in Ottawa. In this connection,





1 I wish to read into the record, my lord, a letter  
2 addressed to Captain F. N. Eddy, Regional Superintendent  
3 of Pilots in Vancouver, by Captain R. W. Bader of  
4 Vancouver, under date December 24, 1964, and I quote:

5 "I was dispatched to pilot the British ship  
6 M.V. TIDECREST from Bulk Terminal Port Moody  
7 to sea, sailing at 0630 December 4, 1964.

8 "Clear of berth at 0645, H.W. Slack at Seven  
9 Narrows at 0740. Bairds tug informed me  
10 that he had informed the bridge of our E.T.A.  
11 there, approximately 0730. The bridge told  
12 Bairds that the tanker Collier was due to pass  
13 through at 0715 bound for Standard Oil.

14 "Reaching Roche Point at 0715, we observed the  
15 Collier under the bridge. We stopped engines  
16 and drifted out towards Berry Point. When I  
17 seen that the Collier was in a safe position  
18 to pass, I blew three blasts from the bridge.  
19 Just after blowing, the bridge raised to its  
20 full height, but no lights of any sort visible.  
21 Time was 0725. Halfway between us and the bridge  
22 was a tug and log two westbound. But as to the  
23 size of the tug they did not require a lift,  
24 and they were well over on the north shore.  
25 Just off of Standard Oil I put the ship half  
26 ahead to control the steering. Then the  
27 bridge displayed three white vertical lights.  
28 I observed a deep sea ship west of the bridge,  
29 he was approaching Lynn Terminal Berth. I  
30 thought while maybe the lights were to warn





1 me of him. I was just going to blow from  
2 the bridge again when from around the stern  
3 of said deep sea vessel came a tug towing  
4 a large hulk. I could see by the speed he  
5 was making that we were both liable to reach  
6 the bridge at the same time. And as of yet  
7 the bridge had not shown me any lights. Just  
8 the three white verticals. I proceeded to  
9 bring the ship around. At this time 0730 we  
10 were at the east end of Hookers Dock. I put  
11 her hard to starboard into the bight of  
12 Hookers then full astern. After the  
13 manoeuvre of full ahead and full astern we  
14 came about with the ship head back to the  
15 east. The tug and tow passing under our  
16 stern close to the south shore. We proceeded  
17 back to the east of Berry Point, came about  
18 and blew for the bridge. The bridge giving  
19 us the proper signals, we passed the bridge  
20 at 0812.

21 "It appeared there were five vessels working  
22 that slack water, and through the lack of  
23 communication, someone will end up having a  
24 very unfortunate accident.

25 "As I mentioned the only lights visible to us  
26 were the three white. The stand off with a  
27 signal of two red lights should have been  
28 displayed to us, or more so to the tug  
29 approaching from the west. As he did not  
30 have a clear view of the bridge, until he







1 was around the stern of the ship berthing at  
2 Lynn Terminal".

3 This is another incident, my lord, which, to my mind,  
4 supports further the urgent requirement for the use  
5 of communications - proper communications - between  
6 ship to shore and ship to ship. The use of portable  
7 radio has been experimented with, not only in Vancouver,  
8 but elsewhere, and it has proved to have quite  
9 extensive merits. The only drawback, I am told, is  
10 that the sets are a bit expensive.

11 Now, my lord, I wish to deal with Brief  
12 number 3, which is the one filed by the Vancouver  
13 Chamber of Shipping, dealing with pilotage matters and  
14 pilots' conditions in the British Columbia Coast  
15 Pilotage District.

16 In recommendation number 1 the Vancouver  
17 Chamber of Shipping recommends that, due to the decline  
18 of the coastal fleet, the main supply of pilots which  
19 used to come from that industry - the coastal industry -  
20 is rapidly decreasing, and suggests that although  
21 these men coming from the coastal industry have good  
22 local knowledge, their experience in manoeuvring  
23 large passenger ships and cargo ships and tankers is  
24 negligible. This is their contention.

25 I wish to take issue with that, and I  
26 refer the Commission to the many, many witnesses who  
27 appeared before this Commission, not only in connection  
28 with the evidence on pilotage operations on the West  
29 Coast, but in the East Coast ports and on the St.  
30 Lawrence and on the Lakes as well, to the effect that





1 deep sea masters never handle their ship; it is done  
2 by the pilot. We have had several witnesses who came  
3 before this Commission and testified - and there is  
4 nothing to contradict these many statements - that as  
5 soon as the pilot boards a deep sea vessel, he is told,  
6 "all right, pilot, she is all yours", and she is all  
7 his from there on. So, I don't know who will teach  
8 the masters of the ocean vessels how to handle the  
9 ships if they are the pool from which the pilots have  
10 to be drawn, or have to be recruited, without them  
11 having experience in the coastal trade. As your  
12 lordship will recall, the suggestion was that a  
13 three-year experience in command of a coastal tug and,  
14 well, any seaman would know to perfection the proper  
15 handling of any size of ship and any type of ship also.

16 The Vancouver Chamber of Shipping  
17 recommends that provision be made for training these  
18 men in deep sea ships before they become pilots, and  
19 I think I have quoted the background, and I think I  
20 should add this, that even if they come from the tug-  
21 boat industry, if they have been tugboat masters, they  
22 are called upon to handle barges comparable in size to  
23 the heaviest ocean ship calling at any port on the West  
24 Coast. Some of these barges, I am informed, are up  
25 to 10,000 tons.

26 The second recommendation in this respect,  
27 coming from the Vancouver Chamber of Shipping, is that  
28 some provisions other than those at present, should be  
29 made for deep sea men to be eligible for the pilotage  
30 service, and adding that the present rule becomes a





1 bar to men, due to the requirement for service on the  
2 British Columbia Coast, stipulating their having had  
3 command of a vessel on the Coast. I think this is  
4 contradicted, my lord, by a list that I have here in  
5 my possession. I do not think this list was filed, and,  
6 again, I am ready to file it now. It is a list showing  
7 the names of the active pilots in the District of  
8 British Columbia, with their past experience before they  
9 became pilots - prior to becoming pilots. It shows  
10 that eighteen came from coastal tankers; twenty two  
11 came from coastal service; thirty four from tugs and  
12 thirty three deep sea. I will add, my lord, that in  
13 many, many instances, these men have had experience  
14 in the four categories I have mentioned; some of those  
15 have served in the four categories I have given you;  
16 and out of the total of seventy pilots you can see,  
17 my lord, that thirty three have had deep sea experience.

18 Now, I will file this --

19 THE CHAIRMAN: I think we have this  
20 information filed. I don't know whether we obtained it  
21 afterwards, but I think that we did obtain this  
22 information because I remember seeing it go through the  
23 exhibits myself. But, you could leave it with us and  
24 if it doesn't tally with what we have, we will file it;  
25 but I am pretty sure that we have it.

26 MR. LANGLOIS: Unless the evidence was  
27 given already.

28 THE CHAIRMAN: I think this is one of the  
29 things that we asked Captain Eddy to furnish later on,  
30 and I think it came later.







1 COMMISSIONER SMITH: Do you mind a question  
2 at this point, Mr. Langlois?

3 MR. LANGLOIS: No, Mr. Smith.

4 COMMISSIONER SMITH: I gather from the  
5 figures which you have mentioned, and which we may have  
6 already on the record, that there are thirty three  
7 pilots who were formerly holders of deep sea certific-  
8 ates; and I understand - and correct me if I am wrong  
9 in this - that in order to qualify for a pilot's  
10 license in the Harbour of San Francisco, you have to be  
11 a holder of a deep sea certificate. That is just by  
12 the way, but it is quite an important harbour and they  
13 seem to recognize that the qualification of being the  
14 holder of a deep sea certificate enables them to do  
15 the pilotage job in the Harbour of San Francisco.

16 Now, I know it is a different type of  
17 harbour, and I come finally to the question, and it  
18 is this: Would there be any objection to lessening the  
19 period of training and experience of a holder of a deep  
20 sea license to qualify to enable him to get a pilot's  
21 license in the district?

22 MR. LANGLOIS: First, Mr. Smith, if you  
23 will allow me a correction - probably it is my fault -  
24 but there is a misinterpretation of what I said. When  
25 I gave you the thirty three pilots who had deep sea  
26 experience, I didn't mean that they had necessarily  
27 held a deep sea ticket as a master.

28 COMMISSIONER SMITH: I am sorry; I mis-  
29 understood you.

30 MR. LANGLOIS: And, secondly, I am told,





1 Mr. Smith, that the District of Vancouver - the British  
2 Columbia Pilotage District - has no difficulty whatso-  
3 ever in recruiting its pilots and does not anticipate  
4 any for quite a long time to come; and they do not see  
5 why they should cut down on their requirements at this  
6 time, so long as they can recruit the number of pilots  
7 they need, and without running any danger of lessening  
8 their present high standards of qualification and of  
9 experience in this district.

10 THE CHAIRMAN: I think this is borne out  
11 by the evidence.

12 MR. LANGLOIS: Yes.  
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1 THE CHAIRMAN: I think on this, the only criticism of  
2 this part was that apparently the only accidents which  
3 occur in British Columbia, as was said yesterday, are  
4 docking - damage while docking. That is why they say  
5 that.

6 But the British Columbia pilots have the  
7 two duties, the piloting all along the coast and also  
8 docking, and it is a question as to which is more  
9 important, whether it is the local knowledge or the  
10 handling of a ship that could be coming to all the  
11 ports around the world. If it is only a docking  
12 master that is needed, well then maybe the problem  
13 would be different, but if, really, it is local  
14 knowledge that is necessary for all the nooks and  
15 crannies of the passages and so on, in that case local  
16 knowledge would be primary.

17 MR. LANGLOIS: Yes, my lord; I would be  
18 inclined to say that local knowledge is the important  
19 factor, especially in a harbour of the type of the  
20 Harbour of Vancouver. It is a tidal harbour and these  
21 mistakes in docking, in handling the ship within the  
22 harbour, are due to tidal currents for the most part.  
23 That is where the local man, the man who has been  
24 trained in the local trade on coastal tankers, has  
25 the necessary experience. The deep sea man who calls  
26 in these ports only on occasion cannot gain that  
27 experience.

28 On top of that, I wish to add, my lord,  
29 that there is a period of training for new pilots, new  
30 apprentices in the pilotage service on the British







1 Columbia Coast. They have a month of training with  
2 a senior pilot in handling a ship. Then, any new  
3 handler has to serve a period of eleven months of  
4 probation before becoming a full-fledged pilot. I  
5 think these requirements are a guarantee of obtaining  
6 a satisfactory, well-trained and experienced recruit  
7 for the pilotage service.

8 THE CHAIRMAN: Then after that, although  
9 it is not in the by-law, he is broken gradually into  
10 the job by being given over the years more responsibil-  
11 ity. For instance, he would not be entrusted with a  
12 passenger ship, I think, before ten years or five  
13 years.

14 MR. LANGLOIS: Also, as your lordship  
15 will surely recall, they have a wonderful brotherly  
16 co-operation in this district where older pilots will  
17 go out and help the younger ones when they are in  
18 doubt about the handling of a job. More than that,  
19 during his probationary period, the new pilot can  
20 turn down a job that he thinks is too difficult for  
21 him to handle.

22 Now, I come to recommendation number 3,  
23 which deals with the recommendation regarding the  
24 holding of enquiries into shipping casualties wherein  
25 the Vancouver Chamber of Shipping recommends that all  
26 enquiries into accidents should be open to the ship's  
27 owner or master or agent involved, and that he be  
28 entitled to obtain a copy of the findings upon proper  
29 request.

30 First of all, I should say that the pilots





1 have no objection to that at all. But, as it has been  
2 pointed out, I think, my by learned friend, Mr.  
3 Brisset, this might cause some difficulties, some  
4 inconvenience, and probably could, in certain cases,  
5 put one of the parties at a disadvantage if before-  
6 hand the council representing that party is allowed  
7 to have information about the accident which may tend  
8 to establish the responsibility of the owner vessel,  
9 in the case of a collision, for example.

10 But, the pilots themselves have no  
11 objection to these enquiries being opened to all  
12 interested parties. At any rate, when the mishap,  
13 the casualty, is important enough, there is a formal  
14 enquiry and then all parties concerned, as your  
15 lordship knows, are permitted to attend and examine,  
16 cross-examine witnesses and present witnesses as they  
17 wish.

18 At any rate, my lord, since I will develop  
19 this subject much further in the brief presented by  
20 the Canadian Merchant Service Guild, I will leave it  
21 at that and come back to it when I come to part 2 of  
22 my address.

23 THE CHAIRMAN: Yes. Just a remark here:  
24 It is a question of procedure, and I will bear in  
25 mind the time element which is quite important here  
26 because the witnesses are going to be scattered all  
27 around the world in a few days.

28 Also, as to procedure, there is the  
29 right of the Minister to make his personal enquiry.  
30 This has been upheld lately by the Supreme Court in the





1 matter of income tax. You will recall that there was  
2 an income tax case being investigated by a representa-  
3 tive of the Minister and the taxpayer requested simply  
4 the right to attend that and call witnesses and so on.  
5 He was refused, and the Supreme Court said that the  
6 Minister was right in proceeding that way for his  
7 personal enquiry, because there was no accused then.

8 So, this is the law. As to whether it  
9 is applicable in this case, on account of the time  
10 element, this is another question.

11 MR. LANGLOIS: I now pass on to recommenda-  
12 tion number 4, where it is suggested that the Guild  
13 should have no place in negotiations involving pilotage  
14 matters, but that such negotiations should be con-  
15 ducted through the Pilots' Association on behalf of  
16 pilots.

17 Well, my lord, I cannot refer to the  
18 exact page of the transcript of the evidence, but  
19 the Guild never participated in negotiations between  
20 the Chamber of Shipping and the pilots on pilotage  
21 tariffs. There were one or two occasions where an  
22 employee of the Guild was there, but just as a  
23 secretary taking notes and without participating in  
24 the negotiations.

25 THE CHAIRMAN: They were afraid of a  
26 precedent there. They do not want to leave the door  
27 open at all.

28 MR. LANGLOIS: Even to taking notes?

29 THE CHAIRMAN: Yes.

30 MR. LANGLOIS: Now, I come to recommenda-







1 tion number 5, that where the master of a vessel is  
2 prepared to take his ship to an outport destination  
3 and there is no properly manned pilot station in the  
4 area, the ship should not be required to pay compulsory  
5 fees, unless the services of a pilot are used.

6 I do not know here if the Chamber of  
7 Shipping has in mind cases provided under Section 350  
8 of the Canada Shipping Act. It is a fact that anybody,  
9 even without a pilot's licence, can take charge of the  
10 ship if there are no pilots available. But we contend,  
11 my lord, that these stations can be properly manned  
12 at all times on very, very short notice. There is no  
13 ground whatsoever to support this recommendation.

14 Now, I come to recommendation 6, where  
15 the Chamber of Shipping recommends that in the case  
16 of regular traders between British Columbia ports and  
17 California ports where vessels are on regular schedules  
18 or runs of approximately one voyage a month, there  
19 should be no compulsory payment of pilotage dues. If  
20 the Commission feels abuses could take place in  
21 specifying the areas mentioned, then they respectfully  
22 suggest that where it is shown that certain vessels  
23 are continually on such runs, then the specified  
24 vessels could be exempt from paying compulsory dues,  
25 provided proper application for an exemption has been  
26 made and approved by the Department of Transport or  
27 the Pilotage Commission, if such Commission is in  
28 being.

29 Alternatively, the recommendation goes on  
30 to say that ships' masters or officers could be given





1 exemptions after, say, six months on a specified run.

2 We are coming back to the old system of  
3 white flag licences, and I draw the attention of the  
4 Commission that this would apply even to foreign  
5 vessels the way the recommendation is worded. There  
6 again, my lord, I think before making such a recommenda-  
7 tion, which would be to the advantage of American flag  
8 ships plying the west coast, if the U.S. Pilotage  
9 Authorities would be agreeable to grant reciprocity  
10 in such a case - which I doubt very much.

11 In this case also, I wish to draw the  
12 Commission's attention to the fact that the Chamber  
13 of Shipping brought no master forward as a witness  
14 to establish that they could safely carry on as pilots  
15 of their own ships after the specified period of runs  
16 between these ports mentioned in the recommendation.

17 Whilst I am on this subject, my lord, I  
18 do not wish to give evidence, but I wish to draw your  
19 lordship's attention to a case of exemption which I  
20 am told is presently unofficially before the Department  
21 of Transport. This is the case of the S.S. ALASKA.  
22 The S.S. ALASKA is a Liberian flag ship. She is  
23 owned and operated, I am informed, by four United  
24 States railway companies. She carries a master and  
25 a chief engineer with American certificates, whilst  
26 the remainder of the crew, I am told, are Canadians.

27 That ship is running between New  
28 Westminster and Whittier, Alaska. Of course, why she  
29 is operating from there, my lord, is because she  
30 could not, she would not be permitted to operate in





1 the United States because of her flag. She could not  
2 operate between two American ports under the United  
3 States legislation. That is why she is operated from  
4 a Canadian port.

5 THE CHAIRMAN: Excuse me; I did not get  
6 the last part - why?

7 MR. LANGLOIS: Because she would be  
8 operating between two American ports if she was  
9 operating from a port at California to another port  
10 in Alaska.

11 THE CHAIRMAN: Could she not do that?

12 COMMISSIONER RENWICK: It would be a  
13 contravention of the Jones Act, would it not?

14 MR. LANGLOIS: The Jones Act.

15 So, my lord, I am informed that this ship  
16 is being operated in competition with our own  
17 Canadian railways, which, as your lordship knows, are  
18 heavily subsidized by the Canadian people.

19 Before the operation commenced, the manager  
20 of the company from Seattle requested a meeting with  
21 the original superintendent of pilots for the District  
22 of British Columbia Coast to discuss an exemption.  
23 When this gentleman was told that this could not be  
24 done under existing laws, he suggested that he would  
25 employ a pilot. When told that he would have to have  
26 two pilots for the long run up inside of Vancouver  
27 Island to the Queen Charlotte Sound, this gentleman  
28 from Seattle stated that he would employ pilots until  
29 the master and officers learned the run, and then they  
30 would dispense with the pilots and would apply to







1 Ottawa for an exemption from payment of pilotage dues.

2 I am told, unofficially again, that  
3 apparently this matter is now submitted to Ottawa.  
4 This is an indication, my lord, of the kind of abuse  
5 that could develop if a recommendation of the kind  
6 made by the Vancouver Chamber of Shipping which I  
7 have just quoted - the items under recommendation 6  
8 were implemented.

9 THE CHAIRMAN: I understand this vessel  
10 would be paying pilotage dues in the Fraser River,  
11 in the New Westminster district and also in the  
12 British Columbia district, although they are merely  
13 transitting there?

14 MR. LANGLOIS: That is right, my lord.

15 THE CHAIRMAN: Not calling on any port  
16 in the British Columbia waters?

17 MR. LANGLOIS: That is so, my lord.

18 COMMISSIONER RENWICK: Mr. Langlois, in  
19 your earlier remarks, with reference to recommendation  
20 6, you mentioned on these regular traders to California  
21 the American flag and I wondered if reciprocal action  
22 would be taken if that were granted. We are reading  
23 into this about vessels of American flag, although  
24 they are not American flag vessels that are referred  
25 to in the recommendation. You can correct me if I  
26 am wrong.

27 MR. LANGLOIS: Yes, you are right, Mr.  
28 Renwick; I am sorry. I said American flag ships;  
29 they are not American flag ships, those regular  
30 traders to which this recommendation refers.





1 THE CHAIRMAN: So, therefore, if she  
2 were a ship with an American flag, she could come  
3 from a port in that state to an Alaskan port?

4 MR. LANGLOIS: No, my lord.

5 THE CHAIRMAN: That is all right. We  
6 will find it out later.

7 MR. LANGLOIS: Now, my lord, I come to  
8 recommendation 7, where it is recommended that a  
9 scale of fees should be arrived at and agreed upon by  
10 the Department of Transport, or other governing  
11 bodies, and the Chamber of Shipping, as we contend  
12 that the scale of fees are not matters for discussion  
13 with the employees of the service.

14 In this respect, my lord, we contend that  
15 the pilots are not employees of the service of the  
16 shipping industry or of the Department of Transport,  
17 but are independent contractors.

18 It is not only in this brief that we have  
19 been referred to the word "employee" speaking of  
20 pilots, but even in the presentation made the other  
21 day by my learned friend, Mr. Bird, he mentioned  
22 wages in referring to earnings of pilots.

23 I think my learned friend, Mr. Lalonde,  
24 has already brought to the attention of this Commission  
25 that there was presently before Parliament, the  
26 Canadian Parliament, a bill which will change  
27 tremendously present-day labour conditions in Canada.  
28 I am referring to Bill C-126, an Act respecting hours  
29 of work, minimum wages, annual vacations, and holidays  
30 with pay in federal works. The short title of that





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1 Bill, my lord, is the Canada Labour Standards Code  
2 Act.

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1 According to the last information I had  
2 before the adjournment of the House, that bill had  
3 reached the second reading stage in the House of  
4 Commons and had been referred to the Committee of  
5 the Whole.

6 This bill has created, I know, quite a  
7 commotion in the business world in Canada, especially  
8 in that section of the business world of business  
9 people connected with shipping, because this Act  
10 defines the word "undertaking" as such, and I am  
11 referring to Section 3(1)(a) of the section headed  
12 "Application of Act".

13 "(1) any work, undertaking or  
14 business operated or carried on for  
15 or in connection with navigation  
16 and shipping, whether inland or  
17 maritime, including the operation  
18 of ships and transportation by ship  
19 anywhere in Canada,"

20 With your lordship's permission, I have copies of that  
21 bill, and I am ready to file both in English and  
22 French a copy of the bill.

23 THE CHAIRMAN: I was just putting a note  
24 there to get it.

25 MR. LANGLOIS: I have several copies.  
26 Perhaps we could have the number now and I will give  
27 it to the Secretary later on. That is one in French  
28 and one in English.

29 THE CHAIRMAN: No. 1440. Could you  
30 give the description, the short title of the bill?





1 MR. LANGLOIS: The short title of  
2 Exhibit No. 1440 is: Canada Labour (Standards) Code.

3  
4 ---EXHIBIT NO. 1440: Bill C-126, Canada Labour  
5 (Standards) Code, French  
6 and English texts.

7 MR. LANGLOIS: I refer the Commission  
8 to Section 4 of this proposed piece of legislation.  
9 Subsection (1):

10 "This Act applies notwithstanding  
11 any other law or any custom, contract  
12 or arrangement, either made before or  
13 after the commencement of this Act,  
14 but nothing in this Act shall be  
15 construed as affecting any rights or  
16 benefits of an employee under any  
17 law, custom, contract or rights  
18 or benefits under this Act."

19 As your lordship can see, the implication of this  
20 section is this is a bare minimum. Even if you  
21 have a labour contract or a convention of any kind  
22 giving additional benefits to those provided in this  
23 Act, this still applies.

24 Then I will refer the Commission to  
25 Section 5 under Part III of the Act, under the title  
26 of "Hours of Work." Subsection (1) of Section 5  
27 reads:

28 "Except as otherwise provided  
29 by or under this Part, the working  
30 hours of an employee shall not exceed  
eight hours in a day and forty hours





1 in a week, and, except as provided  
2 by or under this Part, no employer  
3 shall cause or permit an employee  
4 to work longer hours than eight  
5 hours in any day or forty hours in  
6 any week."

7 Of course, this section goes on to say that with  
8 certain permission an employer could apply the average  
9 over a period of weeks; but, just the same, other  
10 sections of the Act provide for limitations for such  
11 exemptions, such permissions, and Section 6(1) adds:

12 "An employee may be employed  
13 in excess of the standard hours of  
14 work, but, subject to Sections 9  
15 and 10, the total hours that may  
16 be worked by any employee in any  
17 week shall not exceed forty-eight  
18 hours in a week or such fewer total  
19 number of hours as may be prescribed  
20 by the regulations as maximum working  
21 hours in the industrial establish-  
22 ment in respect of which he is em-  
23 ployed."

24 The Act goes on to say that whenever there is a  
25 holiday in a week the normal working hours of an  
26 employee entitled to such holiday falls to thirty-  
27 two hours.

28 I think if this legislation is ever  
29 implemented and ever becomes law in Canada, that  
30 should be enough to discourage the shipping industry







1 from considering pilots as employees or wage earners.

2 As I said, this is a contention of the  
3 pilots of all the pilotage districts of Canada, and I  
4 speak for and on behalf of them all, that they are  
5 and wish to remain private contractors or independent  
6 contractors in providing the services as pilots.

7 Now comes recommendation No. 8 of the  
8 brief of the Vancouver Chamber of Shipping, recommend-  
9 ing that the remuneration of pilots should be based  
10 upon some known factor and should be comparable with  
11 component parts of the industry, both employee and  
12 management; otherwise with ever-increasing traffic  
13 and the advent of larger vessels, pilot's earnings  
14 will become increasingly disproportionate.

15 My clients are opposed to such a  
16 recommendation, and stressing the point they are  
17 independent contractors, they are ready and willing  
18 to take, as they have done in the past, whatever  
19 fluctuations there are in the trade, and whatever  
20 relations may be caused by war.

21 You have an example which I gave this  
22 morning during the last war. They may be caused by  
23 labour troubles, as has been experienced in recent  
24 years on the west coast, particularly during this  
25 long loggers' strike in the middle of the summer months,  
26 which lasted at least two months ---

27 THE CHAIRMAN: It was worse in 1958  
28 with the longshoremen.

29 MR. LANGLOIS: Yes, there was the  
30 example of the longshoremen and the pilots have to take





1 that risk. This is a risk inherent to their profes-  
2 sion and to their trade, and they are ready to take  
3 it as independent contractors.

4 THE CHAIRMAN: In this regard we asked  
5 for the reason for these lows that happened in 1958  
6 and 1959, and also they are seen in the summers of  
7 most years after, and we were told that whenever  
8 a contract is being discussed, a labour contract is  
9 being discussed, there is always a decrease in  
10 shipping, and this has shown up in the summer months.

11 MR. LANGLOIS: And, my lord, if the  
12 shipping industry is prepared to consider the pilots  
13 as employees and to treat their earnings as wages,  
14 they should also be prepared to absorb the fringe  
15 benefits that are provided for other labour cate-  
16 gories; but there is no mention of that in all of  
17 the submissions that I have listened to and in all the  
18 evidence that I have heard during these many sittings  
19 of this Commission, but we have been accused of  
20 wanting the best of two worlds, although, apparently,  
21 we are not the only ones.

22 Now, I come to Recommendation No. 9,  
23 where it is contended that the many problems could  
24 be solved, both locally and nationally, if a pilotage  
25 commission or board comparable to the National  
26 Harbours Board were to be set up or appointed.

27 In this connection, this was changed, as  
28 your lordship noted, in the submission of Mr. Bird  
29 the other day, when he traded the first part of  
30 Recommendation No. 9 for recommendation cited No. 1





1 and No. 2 as originally put up in the presentation  
2 of the Shipping Federation, which original recommen-  
3 dation, as your lordship knows, was substantially  
4 changed in the course of Mr. Brisset's address, when  
5 he suggested a board composed of men from the trans-  
6 portation field and an accountant and a legally  
7 trained man, but in addition to that an advisory  
8 board composed of a number of members -- I have not  
9 the reference, but I will come back to that because  
10 I think it includes officers of the departments,  
11 like Trade and Commerce, representation from the  
12 Treasury Board, the National Harbours Board, and so  
13 on.

14 My lord, when I was listening to the  
15 presentation of my learned friend Mr. Brisset, and  
16 especially when I heard him say he wanted other  
17 officials of the departments, like the DMA's or  
18 officials of administrative boards, such as the  
19 National Harbours Board, officials of Crown corpora-  
20 tions, such as the Seaway Authority, to become the  
21 local authorities, I shut my eyes so as not to see  
22 who was talking, so as not to see just who was sitting  
23 behind or alongside of him, and I wondered, my lord,  
24 if I was listening to an address made on behalf of  
25 so-called free enterprises. I say that because if  
26 there was ever a good plea in favour of more government,  
27 more politics, I have never listened to one as good  
28 as that one was.

29 There has been complaint, there has been  
30 even evidence put before this Commission to the effect







1 that the present troubles which brought about this  
2 condition were caused by too much political inter-  
3 ference, too much chasing of ministers in the cor-  
4 ridors of parliament, too much lobbyism here in  
5 Ottawa. If, in addition to Transport we had  
6 Trade and Commerce, if in addition to Transport and  
7 Trade and Commerce we had Finance, including Treasury  
8 Board -- as your lordship knows that is a committee  
9 of the cabinet, composed of all the ministers -- we  
10 are then bringing in more ministers and more govern-  
11 ment, and, therefore, to my mind we are increasing  
12 the awful risks the shipping industry has been running  
13 into and complaining of by having to do with too much  
14 government.

15 I think the tendency today in the  
16 business world in all countries of the world is to  
17 get away from government, to get away from government  
18 interference, and I have listened to many prominent  
19 business men, and I approve of them, when they com-  
20 plained of the impossibility to manage a business  
21 because there is too much government interference.

22 In listening to the presentation of the  
23 Shipping Federation people, we do not seem to be  
24 heading in that direction at all.

25 My lord, I now come -- and I think, with  
26 your lordship's permission, perhaps I can deal with  
27 that recommendation before the adjournment -- I now  
28 come to Recommendation No. 10, international waters.  
29 It is recommended that the Canadian Government  
30 authorities take this question -- that is, the





1 changes of duties between Canadian and American pilots  
2 at the places agreed to for the past forty years --  
3 up with its counterpart at Washington.

4 This problem has been settled, as your  
5 Commission was informed at the Ottawa sittings in  
6 September; and I wish to say this, with respect,  
7 my lord, that the pilots of the British Columbia  
8 Coast District were very much instrumental in bring-  
9 ing about its solution, and this was a further example  
10 that those who are actually engaged in the operations  
11 of pilotage are better judges of this situation and  
12 can settle their own problems without referring to  
13 outsiders who even though -- I am not ready to  
14 accuse anyone of incompetence -- even though com-  
15 petent in their own field and to serve the public,  
16 having the public interest in mind, are too far  
17 afield, too far away to appreciate the situation  
18 and to find adequate solutions. And with that  
19 observation, your lordship, I beg the Court for an  
20 adjournment at this stage.

21 THE CHAIRMAN: All right. We will ad-  
22 journ now until this afternoon at two-thirty.

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24 ---Luncheon adjournment.  
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1 ---Upon resuming at 2.30 p.m.

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3 MR. LANGLOIS: My lord and gentlemen  
4 commissioners, before concluding my remarks on Brief  
5 No. 3 of the Vancouver Chamber of Shipping I wish to  
6 add to what I have already said this morning that the  
7 suggestion made by my learned friend Mr. Bird in  
8 connection with the earnings, as he called it -- the  
9 wages -- of pilots goes a bit further than what I  
10 stated it to be this morning. In his address my  
11 learned friend stated that the shipping industry  
12 should not be penalized for this, for one example --  
13 expenses, expenditures -- in regard to pilotage  
14 service are more of a burden to them due to local  
15 conditions, but he failed to tell the Commission who  
16 should be penalized in their stead. I took it to  
17 mean that it is the pilots.

18 It is all very well to say that, but in  
19 the shipping industry and shipping corporations, as  
20 in any other business, you have to take things as  
21 they come. You have to meet conditions as they  
22 exist; and as I said this morning, the pilots consider  
23 that to be an inherent risk to their trade as free  
24 enterprisers -- independent contractors -- providing  
25 pilotage service, and they have to take the fluctua-  
26 tions of the trade. Likewise it is an inherent risk,  
27 it is part of the hazard, of the business of operating  
28 ships to take whatever disadvantages there are, such  
29 as weather conditions, distances, port facilities;  
30 for example, at Kitimat there are no docking facilities







1 and they have to go to anchor or they have to go  
2 close to the piles to tie up before the ships can be  
3 either loaded or unloaded; but this is part, to use a  
4 very common and possibly vulgar expression, this is  
5 part of the game; and it is a calculation of which  
6 consideration must be taken when you do operate in this  
7 sphere of activities as the shipping industry in the  
8 operation of ships -- the transport industry -- which  
9 is not exempted from these inherent and unavoidable  
10 risks, or circumstances, or conditions that exist in  
11 all fields of human activities.

12 Now I come, my lord, to the case of one  
13 ship which apparently made -- what could have made --  
14 an impression on those who were present in Prince  
15 Rupert on the date that the Commission was there for  
16 the sittings in that part of the British Columbia  
17 pilotage district, in arriving one good morning  
18 without a pilot. I won't go on and elaborate on  
19 this event because it is not an exception that a ship  
20 would decide to go without a pilot; it is not common --  
21 far from it -- but repetitions of cases of this kind  
22 have come up elsewhere in other pilotage districts.

23 That ship was coming into Prince Rupert  
24 for the sole purpose of satisfying, as he had to, the  
25 Customs Regulations, and in that respect I am informed  
26 that this ship was on a similar route to foreign flag  
27 ships, not necessarily bound for Prince Rupert, who  
28 would avoid coming in if the customs officer would  
29 go out to meet them and satisfy customs regulations  
30 outside of the harbour; but apparently for reasons





1 unknown to me -- and I do not have to be the spokes-  
2 man for anybody charged with the function of collecting  
3 customs duty and satisfying customs regulations -- but  
4 their function at Prince Rupert that these foreign  
5 flag ships, even bound for other ports, have to call  
6 into Prince Rupert not to bring business in but to  
7 satisfy customs requirements. That ship came in  
8 that day without a pilot; and that is the only point  
9 I wish to make, that she had been, or her master had  
10 been, prior to her coming in, advised that there  
11 was a Royal Commission and it just happened by  
12 accident to be sitting in the British Columbia  
13 pilotage district which was very likely to be in  
14 Prince Rupert on that day, and probably that it would  
15 be as good an argument as any to have her coming in  
16 without a pilot. So I leave it at that, my lord.  
17 I am told that when this ship comes in in foul weather  
18 or with a different captain she takes a pilot.

19 Now I come to the suggestion which was  
20 made in the address my by learned friend, the counsel  
21 for the Vancouver Chamber of Shipping -- it is not  
22 a recommendation which is part of their brief --  
23 regarding the merging -- and that is the expression  
24 used -- of the two districts, the Fraser River district  
25 and the British Columbia district, and we here are  
26 going to be dealing with a matter which could have  
27 been dealt with under the part of my address in regard  
28 to the New Westminster Pilotage District, but we  
29 might as well deal with it now because it was brought  
30 up when Mr. Bird was speaking on the brief presented





1 by the Vancouver Chamber of Shipping -- the merger of  
2 the two districts of British Columbia and the Fraser  
3 River.

4 The pilots are opposed to the merging of  
5 the two districts in that sense -- and I am speaking  
6 here on behalf of the pilots of both the Fraser River  
7 District and the B. C. Coast Pilotage District -- be-  
8 cause -- and I think this is the main reason, and it  
9 was pointed out by your lordship the other day, not  
10 by way of argument but as a remark -- that the pilotage  
11 in the Fraser River area was a special one in character.  
12 Evidence has been put forward as to the difficulties  
13 and changing conditions of the riverbed in the Fraser  
14 River, which conditions are not only brought about  
15 during the freshet season but conditions that are  
16 almost changing overnight, when it is not due to sand-  
17 bank shifts; it is due, I am told, particularly this  
18 year, where we are, after a long period of time, having  
19 a winter in British Columbia -- that buoys have been  
20 hoisted up, if not carried away, or are low in the  
21 water -- and I am speaking of . . .

22 THE CHAIRMAN: The other time was in  
23 1951.

24 MR. LANGLOIS: Yes; and also, my lord,  
25 I am told -- this is in evidence -- there is also  
26 fog conditions; there is also this very complicated  
27 and hard-to-solve problem of fishermen. This  
28 Commission has heard evidence about these fishermen  
29 and the fishing boats and of the near missings and  
30 near collisions; and, really, I think it has been







1 established that the Fraser River pilot must be a man  
2 who lives from day to day with these local conditions  
3 if he is to perform an efficient and safe job. If  
4 this art is taken away from this river, from this  
5 very highly specialized chart, or this local know-  
6 ledge which, I will not say, is one of the essentials  
7 but is the essential thing for doing pilotage in  
8 this part or in certain sectors of B. C. Coast  
9 Pilotage District -- then it is going to lose this  
10 local knowledge probably to the extent of taking  
11 risks which might bring about mishaps of the silliest  
12 nature.

13 The Fraser River Pilots have amended their  
14 original -- and I will come to this later, but I want  
15 to mention it in passing -- recommendation regarding  
16 the Pilotage Authority in that they are suggesting  
17 that they will be under the Authority of the regional  
18 superintendent for the British Columbia Coast Pilotage  
19 District; but this is as far as they want or are  
20 prepared to go. This was supported, as you will see,  
21 by examination of the other submissions in regard  
22 to the district; this is supported by other parties  
23 who have appeared before this Commission -- to put it  
24 another way, that they were not prepared to assume  
25 the responsibility of pilotage in the B. C. Coast  
26 District. The river pilot, to my mind, as I have  
27 just said, should remain in his own district as at  
28 present for the purpose of having constantly in mind  
29 the same conditions I have just described.

30 The trip out in the pilot boat from





1 Stevenson keeps the river pilot informed of the  
2 traffic, of these tugs with tows which we heard about  
3 when we were at New Westminster -- these endless tows  
4 with small tugs dragging them; and being a bit of a  
5 seaman myself at times and having had a bit of ex-  
6 perience in the past, I can imagine that when a tow  
7 is going down with the current with one of these tugs  
8 that at times it would be very hard to keep them in  
9 line-up and keep them from getting 't'wartships of  
10 the channel, and if they do come 't'wartships of the  
11 channel they create an obstacle of a very, very serious  
12 nature to any ships meeting such long tows.

13 Also, the trips to the pilot boat  
14 acquaint the pilot with not only the movement but  
15 also with the position, if not to the minute at least  
16 to the hour, of these fishing fleets, and also con-  
17 stant and up-to-the-minute as to navigation and what  
18 weather conditions are available to him.

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1 Secondly, we contend that there will be  
2 no momentary saving to shipping if the same pilot  
3 from the Fraser River performs in whole or in part  
4 pilotage services in the adjoining district of the  
5 Coast of British Columbia.

6 Thirdly, if such a recommendation were  
7 implemented, this would surely result in an increase  
8 in the number of pilots in both districts -- not only  
9 in one, in both districts.

10 Fourthly, it is contended and I think a  
11 rapid study of the evidence as to the conditions of  
12 the operation of pilotage in both districts, and in  
13 particular in that of the Fraser River, would indicate  
14 that there would be no saving in time in the per-  
15 formance of any -- and I underline "of any" -- pilotage  
16 assignments.

17 Fifth, with the proposed system in  
18 effect in the Fraser River area the Fraser River  
19 pilot would no longer be available at Sandheads for  
20 any assignment. This is a very important point,  
21 because it has been established by the evidence  
22 adduced before this Commission that the Fraser River  
23 pilot going out with the ship normally, regularly,  
24 comes back with another ship inbound. If he has to  
25 go elsewhere in a district, the adjoining district,  
26 he will no longer be available and that means some-  
27 body else would have to be drawn from the pool, from  
28 the men on the roster, be taken on board the pilot  
29 boat and waste time waiting around for that ship,  
30 which could be delayed through weather conditions







1 or other causes.

2 Well, that is why we say there will be  
3 no saving at all. There will be surely a delay and  
4 there will be a lesser turnover of pilots as such  
5 as advisers to the masters using the Fraser River  
6 Pilotage District waters.

7 Also, as you, my lord, and your co-  
8 commissioners have been acquainted through the evidence  
9 time and again, the pilots remain for the convenience  
10 of shipping when the ship is expected on board a  
11 pilot boat in order not to delay any incoming traffic.  
12 This is, as I said, to the convenience of shipping,  
13 and this advantage to shipping would be lost if the  
14 pilot, instead of being boarded off at Sandheads with  
15 an outbound ship, is called upon to carry on elsewhere.

16 COMMISSIONER SMITH: Excuse me, Mr.  
17 Langlois, for interrupting you.

18 MR. LANGLOIS: Yes?

19 COMMISSIONER SMITH: I see the force of  
20 your argument. I am wondering if there would be any  
21 way of overcoming the obstacles that you mentioned by  
22 a different and altogether new method of despatching  
23 from some central point. I do not know whether there  
24 would be or not, but could those things be overcome  
25 by a different method of despatching?

26 MR. LANGLOIS: I will say, my lord and  
27 Mr. Smith, that I have discussed that with my adviser  
28 in this case, who is a man of great experience on  
29 the Fraser River, Captain Gillie, whom you have seen  
30 on the stand. He tells me that there is not. He





1 cannot see how a solution could be found to remedy  
2 such a situation.

3 THE CHAIRMAN: Mr. Langlois, before we  
4 pass on to another subject, if we look back in history  
5 we find that this was the finding of the Robbs Report  
6 in 1919 when the question was to merge all the British  
7 Columbia districts into only one district. They  
8 said not New Westminster because New Westminster is  
9 a place by itself, is a special situation that cannot  
10 be compared with the others and should be treated as  
11 such, should be kept separate.

12 But there is the counter proposal made  
13 by the Pacific Coast Terminal as to not the merging  
14 but the overlapping of the district limits in order  
15 to allow the New Westminster pilot to pilot to and  
16 in the Port of Vancouver. That would take care of  
17 about 25 per cent of the New Westminster traffic,  
18 keeping Sandheads for the other cases. Therefore  
19 the ships will not be delayed.

20 Also there is the disembarking at  
21 Sandheads and awaiting the ship there until the pilot  
22 boat goes ashore -- which takes, as we have heard,  
23 quite a long time. It might be as well to go to  
24 Vancouver; that is the argument.

25 Of course, the argument behind that is  
26 one of economics again, and one cannot escape but  
27 wonder about the charge there and to find out that  
28 it costs a lot more to bring a ship from New Westminster  
29 and to bring it from Vancouver than to bring a ship to  
30 Nanaimo. For instance, bringing a ship to Nanaimo





1 there are two charges, one leaving Vancouver and one  
2 entering Nanaimo, plus pilot. Sandheads being  
3 considered as a port, the same thing occurs there,  
4 plus the New Westminster pilot's charge. So they  
5 have two charges, one leaving Vancouver, one entering  
6 Sandheads as the B.C. charge plus mileage; then you  
7 have the normal charge on the Fraser River.

8 Then also New Westminster is at a dis-  
9 advantage from all the other ports because they are  
10 paying three times. Sandheads is considered as a  
11 port for British Columbia, although it is not in  
12 British Columbia waters. There is something queer  
13 there.

14 MR. LANGLOIS: Yes. I do see the  
15 meaning behind your reasoning, my lord, but if this  
16 recommendation is permitted, there is no escaping  
17 from it; all the conditions that I have just out-  
18 lined will arise and they will have to have pilots.  
19 As you say, it is a question of economics. Would  
20 it be more economical to have pilots who would have  
21 to be paid detention while waiting either at one  
22 place or the other?

23 THE CHAIRMAN: Or not consider Sandheads  
24 as a port when getting out of the district to  
25 Sandheads. For instance a ship leaving Vancouver to  
26 Brothie Ledge to sea pays only one pilotage charge.  
27 Why would they pay two if they are going to New  
28 Westminster?

29 MR. LANGLOIS: There is something in  
30 that.







1 THE CHAIRMAN: It does not seem to be  
2 equitable.

3 MR. LANGLOIS: My lord, I will further  
4 discuss that with Captain Gillie when we come to the  
5 New Westminster District and if we can provide any  
6 further enlightenment we will.

7 THE CHAIRMAN: We have found that quite  
8 a few of these proposals and problems are only really  
9 a question of money. It is not a question of good  
10 service. This we have found very often.

11 MR. LANGLOIS: But still something that  
12 is foremost in my mind -- and I think it was as a  
13 result not only of the arguments that I have used as  
14 coming from the side of the pilots, but coming from  
15 capable counsel like Mr. Legg the other day, that  
16 even though these economic factors exist the business  
17 men on the Fraser River were complaining that they  
18 would like to see more ships going up the Fraser  
19 River. That is why they are asking this Commission  
20 to intervene in trying to remove this danger or  
21 hazard or restriction to traffic that the Fraser  
22 River bridge causes there instead of barging or  
23 trucking their material into Vancouver.

24 But, as I said, my lord, this is a point  
25 that also raises a question in my mind and I will give  
26 it some thought and I will discuss it further with the  
27 experts of the district and later on when I come to  
28 that District of New Westminster I shall try and deal  
29 with it probably to a greater extent.

30 THE CHAIRMAN: On the question of





1 economy -- this is prompted only by that. This is  
2 for a ship going to another B.C. port. This is that  
3 triple charge they have there, two in British Columbia  
4 and one more. If the same ship was going to sea  
5 instead of going to Vancouver it would be only one  
6 Vancouver, B.C., charge and one Westminster charge.

7 It seems to be a queer situation there  
8 first because in the bylaw of the British Columbia  
9 District it is said that Sandheads is a port, which  
10 it is not.

11 MR. LANGLOIS: My lord, if it is only to  
12 satisfy my conscience as counsel for the pilots, I  
13 have satisfied myself that this was not the doing  
14 of the pilots, as such.

15 THE CHAIRMAN: No. I am just pointing  
16 out that to you because maybe the solution of those  
17 two proposals could be just a question of economy and  
18 readjusting the tariffs.

19 MR. LANGLOIS: Yes, probably so.

20 Now this is a further point, my lord, that  
21 I wish to deal with before going on with another brief.  
22 It is a further comment rather on this point made by  
23 my learned friend Mr. Bird regarding the use of two  
24 pilots. I want to bring to the attention of the  
25 Commission that the two-pilot system is for the con-  
26 venience of shipping. As an aside to that I want to  
27 put before the Commission -- and this is a deduction  
28 from the evidence put forward at the hearings on the  
29 West Coast -- the advantages to shipping. It is not  
30 only a matter of convenience but a matter of advantages





1 to shipping, who instead of making a landfall in the  
2 northern district will go up the inside passage.

3 And this is a question of economy to  
4 shipping. The first economy to shipping in using the  
5 inside passage and resorting to pilotage services is  
6 a great saving in steaming time. The distance saved,  
7 my lord, is no less than 458 miles.

8 THE CHAIRMAN: I do not think they are  
9 complaining about that part. It is only in the  
10 margin places, the borderline places, like the Kitimat  
11 run when they do not go through the inside; they go  
12 from Cape Beale and so on. It takes about eight  
13 hours. This is what they are complaining about.

14 MR. LANGLOIS: But, as I say, my lord,  
15 it is quite a saving to them and I think this angle of  
16 the problem is worth considering and keeping in mind.  
17 To give one example, Vancouver to Ocean Falls the  
18 inside route is 309 miles; the outside route is 458  
19 miles. The saving in mileage is 149 miles.

20 THE CHAIRMAN: If they took the outside  
21 route they would only have to use one pilot.

22 MR. LANGLOIS: Yes, that is right.

23 THE CHAIRMAN: But they choose to use  
24 two.

25 MR. LANGLOIS: That is right, because  
26 there is definite advantage, not only the advantage  
27 in saving steaming time, in saving the consumption  
28 of fuel and also ---

29 THE CHAIRMAN: Saving the weather also.

30 MR. LANGLOIS: Saving the weather, the







1 delays. Another great advantage, as any man who has  
2 had any connection with shipping would soon realize,  
3 is that no cargo here need be stowed. They who have  
4 been using stevedoring services and longshoremen to  
5 stow cargo know what that means -- only to put them  
6 down and to put them up before leaving port and on  
7 arrival at the next port.

8 There is also a saving in cargo lashing.  
9 I am not so conversant with conditions of employment  
10 of longshoremen on the west coast, but I know very  
11 well what they are in Montreal and in Quebec, and I  
12 am sure my friend Captain Matheson will support me  
13 in that -- when you need only two men and you have  
14 to have a gang of fourteen or twenty and even if  
15 you have only one hour of work to perform you have  
16 to pay at least two. And when you have to pay time  
17 and a half and double time it becomes a costly  
18 matter merely to stow your derricks, put them up  
19 again, or to lash your deck load. Also the same  
20 thing applies to the shoring up. I referred to the  
21 cargoes, the shoring up of the cargoes, in the holds  
22 when a ship is taking a port cargo here, taking a  
23 port cargo there and packing up at a final port  
24 before going out to sea again. By taking the  
25 inside passage these expenses can be saved.

26 THE CHAIRMAN: I think they realize  
27 that. They do not complain about the inside passage.  
28 They complain about the Kitimat run because there they  
29 do not have these advantages because they are coming  
30 from out to sea through the west coast of Vancouver





1 Island, through Cape Beale.

2 MR. LANGLOIS: I am sure, my lord, if  
3 you compare that to the extra cost, the additional  
4 pilot is nothing compared to the saving realized in  
5 taking the inside route or passage.

6 I now come, my lord, to this question of  
7 a pilot at Prince Rupert, a resident pilot at Prince  
8 Rupert, which was dealt with by Mr. Bird, who was  
9 acting at the time as counsel for the Aluminum  
10 Company of Canada, and by the Prince Rupert Chamber  
11 of Commerce.

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1 The pilots of the British Columbia  
2 Coast Pilotage District have taken the position  
3 that the traffic at Prince Rupert did not warrant  
4 a resident pilot. I refer the Commission to Exhibit  
5 131 entitled "Vessels Entering Prince Rupert and  
6 Watson Island" for the year 1962. The addendum,  
7 page 3, reads as follows:

8 "Number of ships entered Prince  
9 Rupert, 1962 equals 46.

10 "Number of times local pilot could  
11 have been used equals 70.

12 "Average tonnage of vessels entering  
13 Prince Rupert, 1962 equals 9,813.

14 "Pilotage. Tonnage at 10,000 \$50.00

15 "Draught Average

16 22 feet \$22.00

17 Mileage, 28 miles

18 at 82¢ \$22.96"

19 For a total for the average vessel  
20 of \$94.96. Then there are 70 jobs  
21 at \$95, to take a round figure rather  
22 than using \$94.96, the round figure  
23 of \$95 was the average that was used,  
24 for a grand total of possible earnings  
25 for the year 1962 of \$6,650.

26 I think this supports the point of  
27 view of the pilots that it will not be economical,  
28 it will not be warranted by the volume of traffic,  
29 to have a pilot permanently resident at Prince  
30 Rupert.







1 THE CHAIRMAN: While we are on this  
2 subject, you heard my remark, maybe, yesterday that  
3 the Chamber of Commerce of Prince Rupert stated that  
4 in the coming years there was a going-up trend, and  
5 this will change altogether. As a matter of fact,  
6 the figures we have received, and they are filed  
7 as exhibits, have changed completely. The traffic  
8 has doubled since -- at least doubled -- so they  
9 say that now it will be warranted, so the situation  
10 would have been changed.

11 MR. LANGLOIS: My lord, I have been  
12 informed, as no doubt your lordship has been informed,  
13 of the celebration which was put up by the authorities  
14 of Prince Rupert to mark the arrival of the one  
15 hundredth ship in that port.

16 THE CHAIRMAN: No, I did not know that.

17 MR. LANGLOIS: And I think the pilots  
18 took part in that celebration, and I think Captain  
19 McKay, the Chairman of the Pilots' Committee, was  
20 very glad to be there as Chairman of the Pilots'  
21 Committee to join in the celebrations. I have here  
22 before me -- and I do not think this is part of the  
23 record -- a report from Captain Eddy, F.N. Eddy,  
24 the Regional Superintendent of Pilots, dated November  
25 12th, 1964, which was addressed to the Superintendent  
26 of Pilotage, and is in the file of the Department,  
27 a copy of which was sent to the Chairman, and I  
28 quote, in part from this report:

29 "I must point out that the one  
30 hundredth ship included those bound





1 "to Port Edward, Port Simpson and  
2 22 entries by the S.S. HARRIET MARU  
3 to and from Jedway for customs  
4 clearance only. As the HARRIET MARU  
5 does not employ a pilot, the eight  
6 U.S. tanker entries take on their  
7 pilot in California, and as many  
8 other entries are via Kitimat, the  
9 amount of remuneration earned by a  
10 local pilot would be 65% of the  
11 District's average, bearing in mind  
12 that a resident pilot could be used  
13 only on local jobs."

14 THE CHAIRMAN: But even if the pilot  
15 is not taken, the ship is there and could use him.  
16 It may be if he were there, and the transportation  
17 charges that are charged every time from Vancouver  
18 up to New Westminster, this might change the  
19 situation. They are paying for it anyway, now,  
20 and maybe the HARRIET MARU would take a pilot. That  
21 is, up to Prince Rupert.

22 MR. LANGLOIS: Yes.

23 My lord, if these ships were bringing  
24 in economically to Prince Rupert, it would be worth  
25 possibly the expense, or to go to the expense of  
26 even subsidizing the keeping of a pilot there.

27 THE CHAIRMAN: Until the time they  
28 remain a port of entry for that region, ships will  
29 have to call there. Of course, they have to go down  
30 in the north to Jedway, for instance, or to Kitimat.





1 MR. LANGLOIS: Wouldn't it be cheaper,  
2 my lord, to give a little extra money to the customs  
3 officer to go out there?

4 THE CHAIRMAN: This is not our problem.  
5 If we could suggest that we would, but we are obliged  
6 to contend with the situation the way it is.

7 MR. LANGLOIS: There again, it is a  
8 question of economics, pilots who will be stranded  
9 there earning only 65% of the average, and the money  
10 would have to be paid by other users of the service,  
11 or the money will have to come from somewhere to pay  
12 the pilot waiting there for jobs.

13 THE CHAIRMAN: We have not received  
14 this letter from Captain Eddy.

15 MR. LANGLOIS: It is addressed to the  
16 Superintendent of Pilotage.

17 THE CHAIRMAN: But we are not and we  
18 have not received it. On the other hand, we have  
19 received from the Prince Rupert Chamber of Commerce  
20 their up-to-date statistics, so, therefore, if there  
21 is an explanation there or some comments to be made,  
22 we would appreciate it being filed also so we can  
23 see the two sides of the picture.

24 MR. LANGLOIS: This letter is available  
25 to the Department, so I do not think there is any  
26 need to file it.

27 THE CHAIRMAN: Will you give it a  
28 number, and we will get a copy of it.

29 MR. LANGLOIS: That is the only copy  
30 I have, and it is a very poor copy, indeed.







CC2 1 THE CHAIRMAN: That is Exhibit 1441.

2 MR. LANGLOIS: It is a letter from the  
3 Regional Superintendent of Pilots in Vancouver to the  
4 Superintendent of Pilotage in Ottawa, Department  
5 File No. 8518-10.

6 THE CHAIRMAN: Dated?

7 MR. LANGLOIS: November 12th, 1964.

8 THE CHAIRMAN: We will obtain it.

9

10 --- EXHIBIT NO. 1441: Letter from the Regional Super-  
11 intendent of Pilots in Vancouver  
12 to the Superintendent of Pilot-  
age in Ottawa, dated November  
12th, 1964. File No. 8618-10.

13

14 MR. LANGLOIS: Now, I come my lord  
15 to Brief No. 12, as submitted by the Aluminum Company  
16 of Canada, Kitimat, British Columbia.

17 Their Recommendation No. 1 is to the  
18 effect that only one pilot be required for pilotage  
19 duty inward and outward bound from Kitimat, British  
20 Columbia.

21 I do not think I need to elaborate  
22 on what I said this morning in my comments on what  
23 Mr. Bird said in this respect in his address, when  
24 I referred to the average run and to Exhibit 137,  
25 and drew the attention of the Commission to the  
26 average time taken on various trips by the SUNHEIN.

27 Now, I only wish to add in this  
28 connection, and as a further comment to my learned  
29 friend's argument -- and that was the point that he  
30 tried to make through the evidence and brought up at





1 Prince Rupert -- that the low price of aluminum on  
2 the world market was making quite a hardship of the  
3 pilotage dues that the liners taking cargo at  
4 Kitimat were costing the company. I need only to  
5 add to this the further comment, which is in evidence,  
6 and refer your lordship to an answer to a question  
7 on cross-examination of the witness, the star witness  
8 of the time. I do not recall whether it was Captain  
9 Loder or Mr. Bird, but I asked him how much it cost  
10 to -- how much he was charging ships that laid along-  
11 side. It was \$300 per day. One has only to compare  
12 that to the cost of an additional pilot to see where  
13 a saving could be achieved in that direction, instead  
14 of trying to have, to use the expression of Mr.  
15 Bird, the pilot penalized for a condition which is  
16 not of his doing.

17 I sympathize with the problem of  
18 any Canadian manufacturer or exporter having to  
19 sell goods on the world market today. Due to our  
20 high standards of living in Canada, when one Canadian  
21 exporter has to sell his merchandise outside of  
22 Canada to a wage-earner earning only half of the  
23 wages he has to pay to the men who produce the  
24 product, it is a hard job indeed. But one must not  
25 lose sight of the fact that even though this problem  
26 exists and is recognized, if the Aluminum Company  
27 chose to go and establish its plant in Kitimat, it  
28 was also for economic reasons; it was to get cheap  
29 electrical power, and this is a tremendous advantage  
30 -- otherwise it would have gone elsewhere. There again,





1 to use Mr. Bird's own argument, you cannot have the  
2 best of two worlds. It was economic for them to go  
3 out there, to go into the wilds, so to speak. They  
4 have to meet these difficult conditions in that  
5 region, but there was a definite economic advantage,  
6 which was cheap power. This and the law of compen-  
7 sation exists there like elsewhere. You have to pay.  
8 However you get it one way you have to pay it some  
9 time in the other way; but you balance it off, and  
10 if it is a paying proposition, you go where it is  
11 economically feasible to go. It was a choice wisely  
12 made, and I need only refer the Commission to the report  
13 which was filed -- I think I did file it, but,  
14 in any event, I mentioned it -- giving the net revenue  
15 for that year.

16 THE CHAIRMAN: There was an objection  
17 to it, and I upheld it.

18 MR. LANGLOIS: It was a report from  
19 a magazine or newspaper, reporting on the state of  
20 the business of the company for that year, and showed  
21 -- I will not say "exorbitant," but very satisfactory  
22 net earnings.

23 THE CHAIRMAN: I think it is common  
24 knowledge they are not bankrupt.

25 MR. LANGLOIS: The second recommendation  
26 is that any pilot be accommodated on board ship  
27 while awaiting commencement of outward voyage.

28 Again, we had evidence in this respect  
29 that it was -- and for anybody who has lived on a  
30 cargo vessel it is almost impossible to rest on a







1 ship, when you have derricks and winches being worked  
2 day and night, loading or unloading a vessel. You  
3 have to live with the noise. It is like sleeping  
4 on a train. Apparently, a car conductor is used to  
5 sleeping anywhere, and sleeps between the two cars  
6 if need be, but he lives on trains. I do not think  
7 it will contribute to the physical fitness and alert-  
8 ness of a pilot if he were called upon to stay on  
9 board a ship with winches going, a conveyor working,  
10 boss stevedores shouting orders, bells ringing,  
11 whistles blowing on the wharf, or any other noise  
12 being made. I don't think it would be reasonable  
13 to expect the pilot to rest.

14 This is not the only problem. I do  
15 not know whether your lordship and the Commissioners  
16 have been on one of these ships carrying aluminum.  
17 I do not know if the company are reading to pay for  
18 the dry-cleaning of the clothes of the pilots, because  
19 this dust gets through the doors and portholes, and  
20 it is a wonder it does not get through the steel  
21 plates.

22 THE CHAIRMAN: You are exposed to it  
23 from Cape Beale to Kitimat.

24 MR. LANGLOIS: But it is much worse  
25 when it is being unloaded.  
26  
27  
28  
29  
30





1 It is spread a bit more; and I can tell you, My Lord,  
2 that we have evidence of this, of ships where the  
3 accommodation is not fit for human beings.

4 THE CHAIRMAN: This is what was given  
5 to us at our hearings; but the other is new...

6 MR. LANGLOIS: I don't think I would like  
7 to describe some of the companions that some of the  
8 pilots have found in these ships.

9 THE CHAIRMAN: But the first part of  
10 your argument is new and was not brought to our attention.  
11 But on the question of accommodation, if any ship would  
12 be asking a pilot to go down to California and be  
13 there the pilot would stay aboard; according to the  
14 contract they have there they would board the ship and  
15 stay aboard the ship for a week or two weeks at a time;  
16 but when it is going to stop at Kitimat, say, it is not  
17 right...

18 MR. LANGLOIS: At least, if he has to put  
19 up with whatever faults there may be in the accommodation  
20 he does not have to put up with the ship which is under  
21 way with the noise of derricks being worked.

22 THE CHAIRMAN: But this is a new situation  
23 to us which we have never heard of before.

24 MR. LANGLOIS: Anyway, there again I do  
25 not think my learned friend indicated an example of  
26 anywhere else in the world where the pilot is forced  
27 to stay aboard a ship when she is in a harbour; and if  
28 there are such examples then my friend should have  
29 brought them up.

30 THE CHAIRMAN: I don't know that we know





1 where there is that situation either anywhere else in  
2 the world, where the pilot has to go on...

3 MR. LANGLOIS: I don't know, my lord,  
4 if there are similar conditions elsewhere, but I think  
5 we should have been told that the same thing exists.  
6 I don't have to put up a case for the Aluminum Company;  
7 it is up to them to put up their own case and to prove  
8 this thing.

9 THE CHAIRMAN: But you have just brought  
10 up the point yourself, that there is nowhere in the  
11 world where this happens.

12 MR. LANGLOIS: They should have put it  
13 in evidence. I am making the point that they should  
14 have put it up in evidence.

15 THE CHAIRMAN: I don't know about that;  
16 but you yourself have just said that there is nowhere  
17 in the world where the pilot is supposed to stay aboard.

18 MR. LANGLOIS: I don't know either, so it  
19 would be up to them to prove that it is done elsewhere.  
20 This is a very secondary argument, but I think if  
21 there is a burden in this direction it is on them --  
22 the burden of proof.

23 The third recommendation has to do with  
24 with the northern pilot station, and the suggested  
25 places are New Bella Bella, Trutch Island, Eutedale,  
26 Pine Island and Bull Harbour, "...with the alternative  
27 that if no northern pilotage station is established  
28 south of Prince Rupert when compulsory pilotage or  
29 compulaory payment of the pilotage fees should not  
30 be required, but payment of applicable pilotage fees







1 will, of course, be made when a pilot is used."

2 Again you have this argument that comes up again and  
3 again: Now we use them, now we don't use them, but  
4 the pilot has to be at their disposal at the harbour  
5 of their choice in case there is a decision to make use  
6 of him, but "We only pay when we use him."

7 So far as this proposed New Bellabella  
8 station is concerned, My Lord, I have gone through the  
9 evidence adduced in that regard and I have noted  
10 from the air, where I could see the land through the  
11 patches of fog, and it looks like a pretty deserted  
12 area; and we have evidence from Captain Gosse -- the  
13 late Captain Gosse -- that New Bellabella is an Indian  
14 reserve; there is, apparently, no land communication.  
15 It is a deserted land, and the main facilities do not  
16 exist. It must not be a very important place, because,  
17 as Your Lordship will recall, when I asked at Prince  
18 Rupert the witness for the company to show me where  
19 New Bellabella was on the chart he couldn't find the  
20 place, and it was Captain Gosse who indicated where New  
21 Bellabella is; and this man was no less than the expert  
22 for the company, Captain Lowther, the superintendent  
23 of cargo and marine superintendent for the company.

24 Now, My Lord...

25 THE CHAIRMAN: Do you wish to take  
26 a rest now?

27 MR. LANGLOIS: Yes, My Lord.

28 THE CHAIRMAN: Then, we will adjourn now  
29 for a few minutes.

30 --- Recess





1  
2 MR. LANGLOIS: I now wish, My Lord and  
3 gentlemen commissioners, to briefly comment on some of  
4 the remarks which counsel for the Aluminum Company of  
5 Canada made in the course of his address the other day,  
6 or this morning, regarding the question of having two  
7 pilots, and with respect to Exhibit 135, and I wish to  
8 take issue with his statement that if any detention is  
9 payable it should be shared by all ships. That was  
10 the contention that was made by Mr. Bird the other day.  
11 which was contrary to what Your Lordship said this  
12 morning, that, dealing with the expenses of pilots  
13 having to travel south of the 50 degree north latitude,  
14 they should be shared by all the ports, and I think  
15 the same reasoning applies there.

16 Therefore, although the pilots are not  
17 making this a bone of contention, they claim that it would  
18 be unfair to use such a principle of sharing of the  
19 detention costs.

20 The other point which was made by my  
21 learned friend, Mr. Bird, was in connection with the  
22 proposed pilotage station at McInnis Island. I do not  
23 think I have to spend much time on that since I think  
24 my learned friend himself gave a good reason for putting  
25 aside this proposal when he said that this was not an  
26 all-weather station, and that, on many occasions, due to  
27 weather conditions it would be impossible to use this  
28 station; and this was the evidence put in by the pilots  
29 when the Commission sat in Prince Rupert.

30 Now, this, My Lord, concludes my comments





1 in connection with the brief of the Aluminum Company  
2 of Canada, and I go on with brief No. 5, which is that  
3 of Crown Zellerbach Canada Limited in regard to pilotage  
4 in the same district of the British Columbia coast.

5 In their brief Crown Zellerbach make  
6 four recommendations, the first of which is:

7 "Regulations covering pilotage in  
8 the coastal waters of British Columbia should  
9 be amended to eliminate the necessity for  
10 vessels in the regular coastal trade to pay  
11 pilotage dues when pilotage services are not  
12 used by such vessels."

13 Well, I don't think that I need repeat the argument I  
14 used this morning when considering a similar proposal  
15 which was advanced by the Vancouver Chamber of Shipping.

16 Their second proposal was to suggest:

17 "Regulations covering pilotage in the  
18 coastal waters of British Columbia should be  
19 amended to eliminate the requirement that  
20 vessels must, on certain designated runs,  
21 carry two pilots."

22 Again, I think the argument which I have used in  
23 respect to a similar proposal in the brief of the  
24 Aluminum Company of Canada will suffice in this respect.  
25 Again, I wish to point out that this is a question of  
26 extending the duty which is called for by the schedule  
27 to the bylaws which I cited this morning.

28 The third recommendation has to do with:

29 "Regulations covering pilots in the  
30 coastal waters of British Columbia should be







1 amended to provide that pilotage dues be  
2 paid only upon such pilotage services as  
3 are, at the discretion of the ship's master,  
4 actually used."

5 This is, again, what I have described this morning  
6 as the theory of the fair weather master who, if he  
7 chooses to navigate his ship alone in fair weather,  
8 should not be forced to pay, but when he needs a pilot  
9 there is a pilot there in readiness for him. But who  
10 is going to maintain a pool of pilots for these  
11 occasional users? Once you have recognized the  
12 necessity of using the pilot, once you have recognized  
13 that under certain conditions pilotage is necessary,  
14 you have to recognize, and there is no getting away from  
15 it, the necessity of having somebody to pay for it;  
16 and in this case I do not think anybody can expect to  
17 have it otherwise. We apparently even have to earn  
18 our heaven; and I think that the way in which this  
19 recommendation is made defeats itself -- defeats the  
20 recommendation itself -- that there is the admission  
21 that the master would need these services on occasions;  
22 they want it that if the master feels that it is discreet  
23 in certain circumstances he should use the service but  
24 if he does not use the wervice he should not be called  
25 upon to pay.

26  
27 Now, their last recommendation, No. 4, is  
28 this:

29 "A pilotage boarding station with  
30 resident pilots should be established and





1 maintained in the vicinity of the north end  
2 of Vancouver Island in order to eliminate  
3 excessive detention time and heavy travelling  
4 expenses now incurred bringing pilots to northern  
5 ports."

6 Of course, the west coast of Vancouver Island is in  
7 this district where the shipping industry has to pay the  
8 expenses of pilots, contrary to the situation which  
9 exists south of the 50 degree datum line of northern  
10 latitude; but... I am instructed, My Lord, that if  
11 a proper pilot boat were provided the pilots would not  
12 be reluctant to having a resident pilot available;  
13 not necessarily a resident pilot but a pilot available  
14 at that point.

15 Now I come to the brief of the Chamber of  
16 Commerce of Prince Rupert. I have dealt partly with  
17 this in my other remarks and I want to make <sup>an</sup> additional  
18 comment. This brief, No. 8, contains only one  
19 recommendation, with seven sub-paragraphs which are more  
20 or less the reasons which are advanced in support of  
21 the recommendation which is that a pilot be stationed  
22 at Prince Rupert. I think we have shown, through  
23 Exhibit 131, that the total revenue would not be  
24 sufficient to pay for more than 65% of the average  
25 pilot's earnings; and if one pilot, My Lord, is  
26 stationed at Prince Rupert to serve the ports mentioned  
27 in the sub-paragraph this pilot would have to be  
28 available to serve all the ports, but if he is away in  
29 Kitimat he can't be in two places at the same time and  
30 he won't be available in Prince Rupert; so even one





1 pilot, I don't think, will solve the problem.

2 If you read their recommendation it is  
3 to the effect that the "...pilot stationed at Prince  
4 Rupert would provide service to ships entering the  
5 harbours of Kitimat, Port Simpson, Jedway, Stewart,  
6 Tasu, and others in the north coast area..."

7 As I said, when you know the broad expanse of the  
8 country there -- the distances -- when the pilot is  
9 away at some of these other ports Prince Rupert will  
10 be left without a pilot; so even the figure I have  
11 quoted, that there is not enough revenue to pay the  
12 cost of having one pilot there -- this figure will  
13 be out of proportion much more if we have to station  
14 two, or, for that matter, possibly three pilots if  
15 we want to give the service that Prince Rupert wants.

16 Apparently this is their claim, and it is  
17 a legitimate claim -- they are fighting for their own  
18 town -- their port; they want really to satisfy their  
19 legitimate ambitions. If they want this it is not  
20 one; it is possibly two or three, I am afraid, if this  
21 pilot will have to service the area surrounding Prince  
22 Rupert.

23 There is, too, the problem of this pilot  
24 being delayed by bad weather -- and bad weather there  
25 is not an uncommon occurrence. Just by reading what  
26 Captain McLoese was describing this morning, of the  
27 trip he made on the pilot boat, at Triple Island the  
28 weather can be bad and can delay not only ships coming  
29 in and out of Prince Rupert but can delay the pilot  
30 boat in its activities.







1                   Anyway, the evidence -- the weight of  
2                   the evidence -- has been that the present volume of  
3                   traffic does not warrant the stationing of a resident  
4                   pilot in Prince Rupert.

5                   Of course, if conditions change there  
6                   is always the possibility of reconsidering the whole  
7                   situation in the light of the new situation  
8                   established at that time.





/rps

1 Finally, my lord, there was another  
2 brief having to do with this District of the Coast  
3 of British Columbia. That was the one which was  
4 Brief No. 13, submitted by G.W. Nickerson Company  
5 Limited. I do not think I should comment on this  
6 brief, for reasons which will appear obvious, I am  
7 sure, to the Commission. Considering that the brief  
8 was taking a different attitude from that taken by  
9 the Chamber of Commerce in its main object and for  
10 reasons obvious and well known to the Commission, I  
11 do not think I need to comment on it, unless the  
12 Commission wants me to elaborate on the subject, which  
13 I do not feel is necessary in the circumstances.

14 Well, my lord, this concludes my  
15 remarks in connection with the District of British  
16 Columbia. Before passing to the next District, in  
17 the name of the pilots of that District and in my  
18 own name as well, I must express our gratitude to  
19 your lordship and to your colleagues, the Commissioners,  
20 and the staff of the Commission for the work that  
21 you have put in in trying to obtain the facts, to  
22 go to the very bottom of this situation in this  
23 vast and difficult District, and the travelling that  
24 you have taken the trouble to do -- the travelling  
25 from one end of the District to the other, by boat  
26 when necessary, by land when possible, to acquaint  
27 yourselves with the situation. I think that this is  
28 very promising that this Commission is well acquainted  
29 with the facts pertaining to conditions of operation  
30 and administration in that District.





1 Now, my lord, I am not asking for a  
2 recess but just for a minute I have to change, to  
3 use a common expression, gang here and get some other  
4 documents out for a few minutes. If you want to  
5 have a recess . . .

6 THE CHAIRMAN: Well, that will suit  
7 me well. I have a telephone call to make.

8  
9 --- A short recess

10  
11 MR. LANGLOIS: I now come, my lord,  
12 to the second pilotage district in British Columbia;  
13 that is the Pilotage District of the New Westminster-  
14 Fraser River. The pilots of that District have made,  
15 in all, seven recommendations, the first one of  
16 which is that pilots should receive earnings  
17 comparable, at least, to the highest paid master  
18 using their services.

19 In this connection I refer the Commission  
20 to pages 9 and 10 of the brief where this point was  
21 developed, and where a comparison was established  
22 as between the earnings of the pilots of the District  
23 and of masters employed by companies.

24 It must be borne in mind, my lord,  
25 in this connection that this District is being  
26 administered by a local commission, and that the  
27 pilots have to support administration expenses which  
28 must be taken out of the pilotage fund. They have  
29 had, as I mentioned earlier, to put up with -- they  
30 are not complaining about it, but it was part of a







1 risk of their operation -- the fluctuations of the  
2 trade in that District. Even today they have to  
3 suffer from an enemy to navigation in their District  
4 -- which is a well known matter to your Commission  
5 that you have learned from numerous representations  
6 and voluminous evidence obtained locally on the  
7 spot and here in Ottawa.

8 At this point I am pleased to note,  
9 and I was pleased to note the other day again, that  
10 counsel for the Harbour Commission is not putting  
11 it down to insincerity of the pilots and he even almost  
12 commend them on the stand they took. They took  
13 a decision to restrict navigation of a certain class  
14 of ship against their whole financial interest.  
15 If the volume of traffic is reduced, if larger  
16 ships cannot get to Fraser Mills, if consequently  
17 the shipments are declining, the losers are not  
18 only the industry concerned but the pilots also.

19 THE CHAIRMAN: May I correct you  
20 there? I think in their recommendation it just  
21 appreciated the fact that the traffic was being  
22 restricted by this obstacle.

23 MR. LANGLOIS: Yes. I am glad, my  
24 lord, that you have made this very important  
25 distinction. I have heard so much of restrictions  
26 to traffic that I use the expression without giving  
27 too much thought to it. When the pilots decided,  
28 they decided in their own minds and in their own  
29 consciences that it was not safe to take ships through  
30 this part of the river on account of this grave





1 danger to navigation, which is an impediment to  
2 free navigation of a certain class ship and all  
3 ships of certain dimensions.

4 Now I wish to go to the next  
5 Recommendation, that the pilots should be reimbursed  
6 by the total pilotage receipts, and should bear no  
7 part of office and of pilot boat expenses and as  
8 a means to achieve this, the present New Westminster  
9 Pilotage Authority should be replaced by the Minister  
10 of Transport as the Pilotage Authority.

11 I do not think it is necessary to  
12 add to this, except to remind the Commission of the  
13 well known fact that they have been relieved of the  
14 expense of operating the pilot boats. I do not  
15 think anybody who has appeared before this Commission  
16 from that District or interested in that District  
17 has proposed or supported a recommendation more  
18 than that particular recommendation.

19 The third recommendation has to do  
20 with the remuneration of pilots, which to their  
21 minds should be great enough to take care of unfore-  
22 seen compulsory retirement at an early age. This  
23 is, I think, a factor which should be taken into  
24 consideration -- or at least should not be lost  
25 sight of, in thinking of pilots' earnings, because  
26 pilots have to be at all times physically fit to  
27 perform their duty.

28 Due to illness -- it need not be a  
29 severe illness -- a substantial reduction or decrease  
30 in eyesight at an early age -- it could happen through





1 an accident; it can happen through sickness, a  
2 diminution in eyesight, which would not present  
3 anyone else exercising other functions from carrying  
4 on in their employment or function, but which would  
5 deprive the pilot of his livelihood, because he will  
6 no longer be acceptable as a pilot due to his  
7 faulty eyesight -- and this is an important fact.

8           It has to be borne in mind that  
9 coupled with this fact there is also this other  
10 important factor that, contrary to other men of  
11 profession, I think it has been established before  
12 this Commission that pilots come into the exercise  
13 of their duty at an advanced age -- more advanced  
14 anyway than the average professional man. So his  
15 expectation of remaining in that profession is cut  
EE2 16 short, so to speak, at both ends. He has to gain  
17 substantial training at sea; he has to train as  
18 a pilot; he has to serve an apprenticeship; he has  
19 to wait to be called -- and I think it has been  
20 established that the pilot is called as such, called  
21 to perform his duty against his licence, at a rather  
22 advanced age.

23           So if, on the other word, his career  
24 is limited through an accident, such as loss of  
25 eyesight or other physical defects, I think that  
26 this should be taken into consideration when we  
27 discuss pilots' earnings. Yes, Mr. Smith?

28           COMMISSIONER SMITH: In addition to  
29 that he is engaged in a very hazardous occupation.

30           MR. LANGLOIS: This is a hazard of his







1 own profession, my lord, and I need not remind this  
2 Commission of the accident which is still uppermost  
3 in our memory, the loss of life of Pilot Lachance  
4 on the TRITONICA, when this Commission was sitting  
5 in Quebec a year and a half ago. And we were reminded  
6 of that when the Commission sat in Saint John, this  
7 catastrophe of the collision of the AVALON, when a  
8 number of pilots and apprentices were lost. We have  
9 also the other disaster, to mention only these, which  
10 happened near Sandhead in Halifax. I cannot just  
11 recall the name of the ship which was involved there.  
12 There again, there was numerous loss of life. This,  
13 as you rightly pointed out, Mr. Smith, is another  
14 factor of these hazards of the very occupation.

15 Then there are pilots breaking a leg  
16 climbing on board a ship and falling off. We  
17 heard the other day -- here again, my lord, I do  
18 not want to give evidence, but I was informed only  
19 two days ago that during the Christmas holidays  
20 a pilot in Saint John lost his life in falling from  
21 the bridge of a ship. And we have had accidents in  
22 the Quebec District of pilots who were caught  
23 between the towboat and a ship in rough sea and  
24 so on.

25 They operate in all kinds of weather,  
26 in the dark and in the daylight as well. It is a  
27 life of danger. Of course, then you have to serve  
28 in conditions as described this morning in this  
29 letter which I read into the record from Captain  
30 McLeese outlining the difficulties of the weather





1 conditions he had to experience recently at Triple  
2 Island.

3 COMMISSIONER SMITH: In addition to  
4 what you say you will remember, and I am sure every-  
5 body will, those terrible group disasters of the  
6 loss of life of pilots off Saint John and Halifax  
7 where several pilots lost their lives outside the  
8 limits of the harbour, just at the edge of the harbour.

9 MR. LANGLOIS: Yes. While on this  
10 subject, in the evidence of Captain Gillie, he  
11 spoke of the situation that apparently is unique  
12 there in that I think in the last 13 years or 15  
13 years, only one of their pilots reached the age of  
14 65 while still on strength. This was not given more  
15 in detail at the time and we have written to Mr.  
16 Warren, the Secretary, in order to have the turn-  
17 over, the retirement age of the pilots and the  
18 reason for the early retirements. Apparently all  
19 the pilots have retired early in New Westminster.  
20 I do not know why. This we would like to know.

21 I am informed that the information  
22 is on its way now.

23 THE CHAIRMAN: I see.

24 MR. LANGLOIS: Now, my lord, I come  
25 to Recommendation No. 4, to the effect that the  
26 presentday method of compiling pilotage dues on  
27 draught and tonnage should be discontinued, and pilot-  
28 age dues should be compiled on the basis of maximum  
29 gross tonnage and draught.  
30





1                   This is again comparable to the recom-  
2 mendations made by the B.C. Coast Pilotage District  
3 and also recommendations in the same direction made  
4 by other districts for the simple purpose of avoiding  
5 the use of -- I will not say "dishonest" but unfair  
6 tonnages.

7                   This recommendation, again, is made,  
8 my lord, under the reservation and in the light of  
9 the further recommendation contained in the brief by  
10 the Guild which will be explained later.

11                  Now, Recommendation No. 5 deals with  
12 the suggestion that pilots should play a far more  
13 active part in the operation and management of their  
14 work, including the examining, selecting and appoint-  
15 ing of probationary and temporary pilots. I think it  
16 is only a very fair and appropriate recommendation to  
17 make, and I know of no better judges as to the  
18 competence, experience and qualifications of future  
19 pilots than those who have engaged in the exercise of  
20 this profession in the district concerned. Then,  
21 my lord, this will be dealt with further in connection  
22 with the remarks I will have to make later on in  
23 connection with the administration and operation of  
24 pilotage generally.

25                  Recommendation No. 6 deals with the  
26 superannuation scheme, which is satisfactory but could  
27 be improved through the participation and assistance  
28 from the government and the shipping industry. This  
29 again will be part of the remarks that I will have to make  
30 in dealing with the general recommendations having to







1 do with the operation and administration of pilotage  
2 in general.

3 Finally, my lord, the last recommendation is  
4 in connection with the pilot boat, which is claimed to  
5 be inadequate, and that the second boat should be  
6 provided to give efficient service. This is dealt  
7 with, my lord, on pages 25 and 26.

8 THE CHAIRMAN: I do not think they said  
9 the pilot boat was inadequate, but the service of one  
10 was only inadequate.

11 MR. LANGLOIS: I was checking myself  
12 here, my lord. There is nothing wrong with the boat.  
13 One is not enough. Thank you for having corrected me  
14 on that, my lord.

15 There again, in connection with the pilot  
16 boat I wish to refer the Commission to what is going  
17 to be said later on, to keep that in mind, that further  
18 will be said in this connection in the brief of the  
19 Canadian Merchant Service Guild having to do with  
20 pilot boats.

21 Now I pass to the brief listed under  
22 No. 11, which is the Pacific Coast Terminal brief and  
23 I go on with their first recommendation, that the  
24 present Fraser River pilotage system should be  
25 continued and improved for development of shipping  
26 and trade.

27 This runs counter to the proposal made  
28 by the pilots that the system should be changed so  
29 that the district should come under the authority  
30 of the Department of Transport, and if it is changed





1 to a board or commission, or whatever it is, that it  
2 should cease at least to be under the local commission;  
3 and, more than that, it runs also counter to the  
4 recommendation made by the pilots of New Westminster  
5 to the effect that they should be under the authority  
6 of the Vancouver Pilotage Regional Superintendent.

7 Recommendation No. 2 deals with pilotage  
8 dues or fees within the district, which should be  
9 compulsory but should not exceed in total the dues  
10 or fees against the vessels trading into Vancouver.

11 In this connection the only comment I  
12 wish to make is that the pilotage dues should not be  
13 based on what is being done elsewhere or charged else-  
14 where, but should be based on such a basis so that they  
15 will be commensurate with the service performed and  
16 that they will -- and I think your lordship used  
17 at times the expression "tax" ---

18 THE CHAIRMAN: A quasi-tax.

19 MR. LANGLOIS: There should be an in-  
20 gredient -- call it a tax, but it will be a factor  
21 which will bring enough into the pilotage fund to  
22 maintain the service which is needed. Otherwise it  
23 will have to be subsidized.

24 THE CHAIRMAN: That is right, and that  
25 is what happens now.

26 MR. LANGLOIS: Even if it is subsidized  
27 by the government, it is not an exception. After  
28 all, governments are subsidizing railways, ferry  
29 services, shipping, air lines, and so on. I know in  
30 some parts of the country where the economic conditions





1 do not meet the bare minimum of services that is to  
2 be expected in order to develop and provide the  
3 necessary service to the public, the government has  
4 the duty to perform, and the only way is to intervene  
5 in one way or another to support these essential  
6 services to the community.

7 THE CHAIRMAN: Now we are on the subject  
8 we have to bear in mind also that we are concerned  
9 with two districts. It is like a ship Montreal-  
10 bound that has to pay twice the pilotage because it  
11 is going through two districts. It is a question  
12 of location.

13 MR. LANGLOIS: That is right, my lord.

14 I do not think I need comment unduly  
15 on Recommendation No. 3. We have no quarrel with  
16 what is said about Part VI of the Canada Shipping  
17 Act, that it should be amended as necessary in order  
18 to provide adequate administration of the pilotage  
19 districts and proper government of the pilots  
20 licensed for the district. That will be the  
21 Department of Transport or some other authority.  
22 The pilots desire the administration of their dis-  
23 trict to be governed by a public body, as is the  
24 case in other major districts in Canada.

25 Recommendation No. 4: The New Westminster  
26 Pilotage District should be merged with the British  
27 Columbia District and administered by a central  
28 authority.

29 This morning I have discussed this  
30 recommendation, and I have given the arguments against







1 the merging of two districts, and I do not think I need  
2 repeat myself here, except to say again that the pilots  
3 in these districts are ready to accept that they be  
4 under whatever pilotage authority is in function in  
5 the British Columbia Coast District.

6 Recommendation No. 5: The entire ship  
7 channel problem from the head of navigation to the  
8 Strait of Georgia should be considered, and, in the  
9 light of the safety of navigation and of present  
10 trends in the design, size and draught of shipping,  
11 recommendations should be made as to the widths and  
12 depths of the channel which can usefully and economical-  
13 ly be justified, together with a future programme  
14 of works which should be performed to achieve a  
15 safe modern channel. In addition, the safety of  
16 navigation should be paramount in any consideration  
17 of river work, bridges, or other structures, either  
18 existing or proposing to be.

19 Far from having any quarrel with it, we  
20 are fully in support of such recommendations, as this  
21 will have the result of improving navigation, de-  
22 creasing shipping hazards and bringing more traffic  
23 into the district.

24 Now, my lord, I have come to Brief No. 7,  
25 which is the brief put forward by the New Westminster  
26 Harbour Commissioners. This brief contains but  
27 three recommendations.

28 Recommendation No. 1: To establish  
29 the economic necessity for ships with the bridge aft  
30 to transit the New Westminster railway bridge.





1 Yes, I think this economic necessity has  
2 been established, my lord. It has become a problem,  
3 and one of these problems the solution of which can  
4 no longer be delayed because it is hurting the com-  
5 munity, it is hurting a very important industry, and  
6 it is preventing development of the communities  
7 which are farther upstream and could have a very  
8 promising future.

9 Recommendation No. 2: To examine into  
10 the rights and legality of a group of pilots acting  
11 in concert to nullify the above concept by refusing  
12 to navigate ships through this bridge on the grounds  
13 that to do so cannot be justified in view of the risk  
14 to life and property involved.

15 If I were to limit myself, my lord, to  
16 the first part of that recommendation I do not think  
17 I would have to spend so much time in convincing  
18 your Commission that the right and legality of the  
19 pilots to act in the way they do do exist. There  
20 is a danger to navigation that would be caused by  
21 the bridge or any other impediment to navigation.  
22 It is not only wise but a duty for a pilot to act  
23 so as not to endanger property or life.

24 Now, as to the feasibility of taking  
25 bridge aft ships of a length of over 375 feet, I  
26 think we have had ample evidence, my lord, and it is  
27 not necessary for me, I do not think so, to go through  
28 that again. We have heard both Mr. Hunter and Mr.  
29 Legg who have quoted excerpt after excerpt from the  
30 evidence from experts in the field, from independent





1 witnesses. When I saw a man of the experience of  
2 Captain Gillies, for example, in full accord with a  
3 man of the experience of Captain Grainey, saying  
4 exactly the same thing and using almost the same words  
5 as to the situation there, I had no doubt whatsoever  
6 in my mind that the danger, the hazard of that bridge  
7 was not to be put in doubt.

8 Again, as I said, I do not think I should  
9 repeat the arguments which have been advanced by my  
10 two learned friends, Mr. Hunter and Mr. Legg, the  
11 other day in support of this contention. Although  
12 some claim that the rules and regulations in regard  
13 to the harbour navigation were promulgated through  
14 the pilotage commissioners, they have not been pro-  
15 mulgated by the right authority, that they should be  
16 promulgated by the harbour commissioner -- I do not  
17 agree with that, my lord. It is not a question of  
18 directing traffic within a harbour under the adminis-  
19 tration of the commission; it is a question of life  
20 and death and danger to navigation.

21 THE CHAIRMAN: It is a question of  
22 semantics here, in that it is not really restrictions  
23 or traffic control in the harbour, but just the extent  
24 to which traffic can be brought in. When you do  
25 not have the water, you cannot freeze it. It is  
26 not limiting traffic when you say ships not over  
27 28½ feet draught could go up the Fraser River or  
28 go at that pier more than 25 feet. There is no  
29 more available water, and so on.

30 MR. LANGLOIS: I think, my lord, this







1 Commission was -- at least, I was put under a wrong  
2 impression. Quite possibly, I misunderstood what  
3 was said by the way the argument was presented the  
4 other day in connection with these safety regulations.  
5 The impression was left with me, at least, that these  
6 safety regulations exist only since 1961. It is  
7 true of this part of the regulations having to do  
8 with the bridge aft ships, that the others have not  
9 been changed since 1933.

10 THE CHAIRMAN: Except they have been  
11 brought up-to-date, for instance, at Buoys 16 and 18  
12 they turn. There was one before that has been  
13 changed for bridge aft ships that were prohibited  
14 to go except by daylight and up to a certain length,  
15 but this has been changed since dredging, and also  
16 coming down the bridge.

17 MR. LANGLOIS: In respect of these so-  
18 called restrictions, again, my lord, I wish to refer  
19 your lordship to paragraph 6, page 2, of Exhibit 1337,  
20 which is the brief of the New Westminster Chamber  
21 of Commerce, and I quote:

22 "The observance of these re-  
23 strictions has been compelled by  
24 both safety and sense in an appre-  
25 ciation of the constant dangers which  
26 prevail under the two structures  
27 in the form of shifting cross-currents  
28 and restricted widths aggravated by  
29 seasonal and visibility changes."

30 I think it was Mr. Hunter who said this was a very





1 important group of business men interested in the  
2 welfare, economy and development of the community,  
3 and it is far from putting the blame on the pilots  
4 of the district concerned.

5 Now, my lord, there is another point in  
6 connection with this that I wish to make about a  
7 suggestion that has been advanced to the effect that  
8 two boats should be used to tow ships through that  
9 bridge.

10 In the course of the argumentation the  
11 other day Mr. Commissioner Smith referred to Exhibit  
12 178, which was this unsolicited letter, as he called  
13 it, from the master of the VASSAR.

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Unless I am mistaken, when Mr. Smith quoted the letter he quoted the second paragraph, and I would like now to quote the last part of the letter; and, again, this is an unrequested letter from this master; and this paragraph reads as follows:

"In view of my experience I would refuse an order to let my present ship pass <sup>the</sup> ~~span~~; only in case of emergency would such an order be considered; and even then only with the assistance of two powerful tugs. I understand that such tugs are at the present moment not available at New Westminster." This is the captain of a ship.

COMMISSIONER SMITH: I think, too, Mr. Langlois, that it should be added to what you say that this ship, if my memory is correct, was slightly over 9,000 tons gross and nearly 500 feet in length -- 485 feet, I think, in length; that is my recollection.

MR. LANGLOIS: I have that at the bottom of the letter. There is a description of the ship as being British, with a length overall of 487 feet, and with a beam of 62 feet. This is at the bottom of the letter. Type, closed shelter deck; bridge aft; diesel; single propeller. That is the information at the bottom of this letter, and to which is attached a photograph of the ship, taken from the "Marine Digest."

THE CHAIRMAN: With regard to the bridge aftships there was only one suggestion that the pilots made and that was that with ships over 375 feet, it would be to convert them to a certain extent by having it at the bow or in the middle. This was suggested







1 by the pilots on a few occasions.

2 We have written to the secretaries in  
3 order to find out whether these suggestions of the pilots  
4 have been carried out by the companies concerned and  
5 as to the result we have not received as yet any  
6 information.

7 MR. LANGLOIS: I am informed that there  
8 has not very much been done, and you will be getting  
9 that information through your sources, My Lord.

10 Now, My Lord, in connection with the  
11 suggestion that tugs be used to tow these ships through  
12 the bridge, I would like to file -- I think mention was  
13 made of this when we were either in Vancouver or in  
14 New Westminster of the accident which occurred to  
15 the log barge "PACIFIC GATHERER" in tow of the tug  
16 "LORNE" in September 1930, but I have here a copy of  
17 "Harbours and Shipping," dated May 1963, with an  
18 excellent article and excellent photographs at pages  
19 280 and 281 and carrying on on page 282. You have  
20 excellent photographs of the mess that was made both  
21 of the bridge and the vessels involved.

22 THE CHAIRMAN: That was the railway bridge?

23 MR. LANGLOIS: This was the second  
24 narrows bridge.

25 THE CHAIRMAN: Before the bridge was  
26 changed; the old bridge at the second narrows?

27 MR. LANGLOIS: That is correct.

28 THE CHAIRMAN: Yes; Captain Gosse gave  
29 evidence on that and said the bridge was in the way!

30 MR. LANGLOIS: Yes; and, My Lord, I





1 have to remind you also that he also explained that  
2 at that place they have four periods of slack water  
3 every twenty four hours.

4 THE CHAIRMAN: Yes, that is right.  
5 He gave that evidence, I think, at New Westminster.

6 --- EXHIBIT No. 1442: Copy of publication re  
7 Harbours and Shipping,  
8 dated May 1963.

9 MR. LANGLOIS: I have only one minor  
10 point which I wish to make in connection with Exhibit  
11 165B which was filed in connection with brief 145  
12 by Mr. Legg the other day, and I draw your attention  
13 to the figures appearing on page 1 of that brief.  
14 The information was given as to the lumber exported  
15 from the Fraser Mills Dock, showing a decline in 1964.

16 Just as a result of my own personal  
17 curiosity I made a little calculation and this would  
18 show that the year of the so-called restriction, 1961,  
19 if you add up the number of shipments from the docks  
20 and the number of shipments made by scow you arrive  
21 at a total which would indicate that apparently  
22 at least that year restrictions didn't have too much  
23 effect, because the total shipments were greater  
24 than the year before. It is admitted, I think,  
25 that it is a factor which enters into it, but I don't  
26 want to make a point of it. I just wanted to mention  
27 it in passing.

28 THE CHAIRMAN: If I am not mistaken I  
29 think the restriction on the bridge aft ships was not  
30 placed when that document was published, but it was





1 placed in 1959 on the occasion of the CAVADORO  
2 incident; so it had existed for two years at that time.

3 MR. LANGLOIS: Now I come to brief No.  
4 6, which is the brief of...

5 THE CHAIRMAN: Will you have very much  
6 to say on this one?

7 MR. LANGLOIS: I don't think so, My  
8 Lord; but I will not be able to finish tonight anyway.

9 THE CHAIRMAN: Then, I think we will  
10 adjourn until tomorrow morning at 10.00 o'clock.

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16 --- Adjournment

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# ROYAL COMMISSION

ON

## PILOTAGE

### HEARINGS

HELD AT  
O T T A W A

VOLUME No.: 163

14 Jan. 65 DATE:

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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held  
within the Supreme Court Build-  
ing, Wellington Street, Ottawa,  
Ontario, on Thursday, the 14th  
day of January, 1965.

THE COMMISSION:

The Honourable Mr. Justice Bernier	-- Chairman
Mr. Robert K. Smith	-- Member
Mr. Harold A. Renwick	-- Member
Mr. Gilbert Nadeau	-- Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	-- for the Shipping Feder- ation of Canada
Mr. Marc Lalonde	-- for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of the Montreal Harbour Pilots; Corporation of the Mid- St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. R. Langlois	-- for the Canadian Merchant Service Guild
Mr. J.J. Mahoney	-- for the Dominion Marine Association
Mr. R. Macgillivray	-- for the Department of Transport





1	<u>INDEX OF SUBMISSIONS</u>	<u>PAGE</u>
2	Continuation of argument as presented by	
3	Mr. Langlois (and continuing throughout)	21,573

4	<u>INDEX OF EXHIBITS</u>	
5	<u>NO.</u>	<u>DESCRIPTION</u>
6		<u>PAGE</u>
7	1443	Schedule D to Supplement A of the
8		brief of the Pilots of the New West-
9		minster District, showing number of
10		vessels entering the Fraser River Dis-
11		trict for years 1963 to 1964, inclusive
12		21,578
13	1444	Photostatic copy of Report from Lloyd's
14		List & Shipping Gazette, Friday,
15		October 30th, 1964, entitled "Handling
16		of Big Tankers."
17		21,598
18	1445	List of foreign vessels under 250 tons
19		entering North Sydney in 1964, with
20		particulars
21		21,612
22	1446	List of C.N.R. chartered or owned
23		vessels exempted from payment of
24		pilotage dues
25		21,626
26	1447	Clipping from Cape Breton Post, dated
27		December 30th, 1964, entitled "Four
28		Hundred Thousand Tons of Freight Hand-
29		led at Terminus Wharf."
30		21,633
	1448	opies of bylaws re Quebec and Montreal
		Districts, as published in the Canada
		Gazette of dates May 19th, 1928 and
		September 24th, 1927
		21,671

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4/rps

1 --- On commencing at 10:05 a.m.

2

3 MR. LANGLOIS: My lord, Mr. Commissioners  
4 as we enter into the second day of my address, I am  
5 quite sure that your lordship and your co-commissioners  
6 now appreciate what I meant yesterday when I begged  
7 your indulgence. But I hope to be able to finish  
8 today, making speed without too much haste.

9 As we closed last night I was coming  
10 to Brief No. 6, which is the Crown Zellerbach Build-  
11 ing Materials Limited brief, and I have referred to  
12 the excellent presentation by Mr. Legg the other  
13 day as to the representations in their brief.

14 Recommendation No. 1 deals with an  
15 immediate study by the New Westminster District  
16 Pilotage Authority and the New Westminster Harbour  
17 Commissioners along with other competent personnel  
18 with the object of reducing the restrictions on  
19 deep-sea shipping to and from points easterly of  
20 the Old Fraser River Bridge and the implementation  
21 of those recommendations.

22 With that we have no quarrel. We  
23 welcome such a study, and we hope it will be made.

24 Recommendation No. 2 deals with the  
25 New Westminster District Pilotage Authority and the  
26 New Westminster Harbour Commissioners to the Public  
27 Works of Canada that the Sapperton and Port Mann  
28 channels easterly of the Old Fraser River Bridge be  
29 maintained at a depth of 30 feet below local low  
30 water.





1 With that again we have no quarrel.  
2 We welcome it and we support this excellent recommend-  
3 ation.

4 As for Recommendation No. 3, the  
5 conversion of the Old Fraser River Bridge from a  
6 swing-span railway bridge to a lift-span railway  
7 bridge, there again we have no quarrel. We support  
8 it and hope that this will be done in the very near  
9 future.

10 As to the Recommendations regarding  
11 the Port of Fraser Mills, Recommendation 4 requests  
12 an increase in depth of the Sapperton and Port Mann  
13 channels to 30 deep, and the elimination of the  
14 restriction on night navigation through the Old  
15 Fraser River Bridge by the addition of suitable  
16 aids to navigation such as the illumination of  
17 channels and the said bridge.

18 In Recommendation 5 they request a  
19 special study to determine how to more effectively  
20 handle ships with bridge-aft in the Fraser River.  
21 There again we welcome any study that could be made  
22 in this direction.

23 We welcome these recommendations and  
24 we offer the fullest co-operation on the part of the  
25 pilots of the New Westminster Pilotage District.

26 I just wish, in respect of this  
27 brief and the address by Mr. Legg, to remind the  
28 Commission of what he has said to the effect that there  
29 is quite a trend towards vessels with everything aft.  
30 This is the modern trend. There is also a trend towards





1 larger vessels and I think evidence was given to  
2 that effect, also mentioning that 90% of the ships  
3 in the local trade are bridge-aft ships.

4 I wish also to refer the Commission  
5 to Mr. Legg's comment to the effect that his client  
6 and himself in no way, shape or form wished to  
7 criticize the pilots' judgment in their appreciation  
8 of the danger and hazard created by the railway  
9 bridge.

10 However, we take exception to his  
11 contention that the judgment of the pilots as to  
12 an appreciation of a situation such as this, where  
13 danger to safety of navigation is involved, should  
14 not be final. If the judgment of the pilots is not  
15 final, well, there is only another person to give  
16 a final judgment and this person is the master of  
17 the vessel. I refer again, here, to this unrequested  
18 letter from the master of the vessel LEADER, who  
19 said even if he were ordered to go through that  
20 bridge with his vessel he would not. I think this  
21 is the final judgment and we must accept it.

22 Now, my lord, I wish to refer to  
23 Brief No. 44, just to say that we have no quarrel  
24 with this Brief. I have commended it in part. I  
25 even quoted from a paragraph yesterday, which  
26 supports the contention of the pilots as to the  
27 danger of the river bridge. This is the Brief  
28 presented by the Vancouver Chamber of Shipping of  
29 New Westminster.

30 Now I come to Brief No. 4, which is the







1 brief of the Vancouver Chamber of Shipping in regard  
2 to the New Westminster Pilotage District, in which  
3 there are three recommendations.

4                   The Chamber of Shipping recommends in  
5 No. 1 that questions of the type of the refusal  
6 by pilots to take vessels through the bridge during  
7 darkness hours and to take vessels of over 375  
8 feet in length with bridge-aft through the same  
9 bridge, should be discussed between the interested  
10 parties and investigated thoroughly before any action  
11 is taken. There again we welcome such a study. We  
12 also have no quarrel with this Recommendation,  
13 to the extent that we still contend that the judgment  
14 of the pilot in this case should not be left in  
15 doubt. It was done in all honesty in appreciation  
16 of a real danger.

17                   Their Recommendation No. 2 recommends  
18 one Authority -- that all pilotage on the British  
19 Columbia coast, including that of the Fraser River,  
20 should be under one Authority. I have discussed  
21 this point in connection with their brief, in  
22 connection with the British Columbia Coast District  
23 and I do not think I need make further comment on  
24 it.

25                   Their Recommendation No. 3 is in  
26 regard to the retention of the services of the  
27 present Secretary of the New Westminster Pilotage  
28 Authority for the Fraser River at New Westminster.  
29 That is most welcome by the pilots. I think his  
30 name is Mr. Warren. He is a very capable man; he is





1 doing an excellent job and, should it be decided  
2 to bring the Pilotage District under the authority  
3 of the original superintendent, as it was recommended  
4 by the Pilots of the Fraser River in their Brief,  
5 it is hoped that the services of Mr. Warren will be  
A2 6 retained and that he will carry on in his present  
7 job looking after the despatching of the pilots from  
8 New Westminster.

9 My lord, this takes me to the final  
10 remark which I wish to make in connection with the  
11 District of New Westminster and, in referring to  
12 a request which was made to me -- I think it was  
13 early in December -- by your Commission through the  
14 good office of Mr. Morissette to obtain statistical  
15 information on the volume of traffic in the  
16 Fraser River for the years 1963 and 1964, both  
17 inclusive.

18 Immediately on receipt of this  
19 request from Mr. Morissette I contacted Captain  
20 W.J. Clark, Chairman of the local Pilots' Committee,  
21 and I received yesterday his reply, which reached  
22 me here in Ottawa, because it was sent to my office  
23 in Quebec and it had to be returned here to Ottawa.  
24 The letter is dated December 30th and I wish now  
25 to file it as Exhibit -- ?

26 THE SECRETARY: 1443, my lord.

27 THE CHAIRMAN: No number has been  
28 given to this?

29 THE SECRETARY: Yes, my lord.

30 MR. LANGLOIS: This is an addition to





1 Supplement A, Schedule D of the Brief of the Pilots  
2 of the New Westminster District, giving the number  
3 of vessels entering the Fraser River District for  
4 the years 1963 to 1964, inclusive, by the seven  
5 licensed pilots of that District. I have here, my  
6 lord, three copies I could spare.

7 THE CHAIRMAN: Give it an exhibit  
8 number, and in the description you will put that it  
9 is a supplement to the brief?

10 MR. LANGLOIS: Yes, my lord.

11 THE CHAIRMAN: Appendix D.

12 MR. LANGLOIS: Schedule D.

13  
14 --- EXHIBIT NO. 1443: Schedule D to Supplement A of  
15 the Brief of the Pilots of the  
16 New Westminster District, show-  
17 ing number of vessels entering  
the Fraser River District for  
years 1963 to 1964, inclusive.

18 MR. LANGLOIS: In this connection,  
19 to explain the further delay and how this information  
20 was gathered -- delay, I should say, in obtaining  
21 this information -- I wish to quote the following  
22 paragraph from Captain Clark's letter to me dated  
23 December 30th, 1964, and I quote:

24 "In reference to your letter of  
25 December 15th we have now compiled  
26 the statistics for 1963 and we are  
27 waiting for the year's end to complete  
28 the statistics for 1964. We will have  
29 copies made out as soon as possible  
30 and send them on to you as per request.







1 "I wish to point out to you at this  
2 time that these statistics are compiled  
3 in a logbook, which is supplied by our  
4 Commissioners for reference for the  
5 Secretary and ourselves. The office  
6 staff fill in all movements, which  
7 includes inward movements, outward  
8 movements, movages, detention, cancel-  
9 lations, and bridge passages, and the  
10 pilot who performs the particular  
11 duty signs for it.

12 "As our Secretary is knee-deep digging  
13 for information requested of him by  
14 the Royal Commission, we are pleased  
15 to help where we can."

16 Now, my lord, that concludes this part  
17 of my address in connection with the Fraser River  
18 District, but before I leave the West Coast to move  
19 to the East Coast of Canada, I wish to make a  
20 statement in regard to the point raised by your  
21 lordship yesterday, in connection with the rate  
22 structure in force on the West Coast, having particular  
23 regard to the boarding point of Sandheads.

24 I have discussed your remark again  
25 last evening with our good friend Captain McLeese,  
26 who in the years 1958 and 1959 was Chairman of the  
27 Pilots' Committee. In those years he informs me  
28 that the rate structure of the British Columbia  
29 Coast Pilots was changed from eight or ten different  
30 rates to a rate of half a cent per gross ton, a dollar





1 a foot draught and 88¢ per mile. This was done to  
2 simplify the economy.

3 THE CHAIRMAN: Yes.

4 MR. LANGLOIS: And also to subsidize  
5 the Port of Prince Rupert, Port Alice, Tahsis and  
6 Port Alberni. At the times the rates were being  
7 changed it was agreed by all parties concerned that  
8 the rate from Vancouver to Sandheads would stay the  
9 same as before; that is to say, half the rate out  
10 of Vancouver and half the rate into Sandheads.

11 There was a mix-up apparently in the  
12 printing of the bylaw and they were made to read  
13 a full rate instead of half a rate out of Vancouver  
14 and a full rate also into Sandheads. When this  
15 mistake was taken up and discussed, the Chamber  
16 of Shipping in Vancouver felt that it was best to  
17 leave it as it was, because the total earnings of  
18 pilots under the new rate would be the main factor  
19 to be watched. After all, they were looking at the  
20 overall picture instead of looking at one particular  
21 pilotage fact.

22 After a year it was found that the  
23 pilots were receiving 3.8% more under the new rate.  
24 This was taken away by reducing the mileage rate,  
25 but it left the Vancouver-Sandheads run a full-out  
26 rate and a full-in rate.

27 This, it is understood, was a heavy  
28 burden for such a short run and the pilots and every-  
29 body concerned agreed with that. But it could be  
30 rectified by giving the Vancouver-Sandheads run its





1 own rate of half a rate in and half a rate out.

2 This, of course, would cut the revenue,  
3 the total revenue of the District, and the mileage  
4 rate would have to be revised to keep within the  
5 agreement which was agreed to when this change  
6 came about in 1958 and 1959.

7 The pilots feel that such a rectification  
8 might help the present situation and do away with  
9 this awkward situation, so to speak, instead of  
10 keeping the present conditions. But we wish to  
11 add that in reference to the ports that were going  
12 to be subsidized by this new structure of rates  
13 brought about in 1958 or 1959, that the volume of  
14 traffic to these places, these ports, has increased  
15 greatly and particularly in the past six years --  
16 so much so that the time of assignment is now  
17 about 75%, or it is rather three-quarters of an  
18 hour longer per day, and the earnings have been held  
A3 19 at approximately the 1959 level. So the overall  
20 result was about what was envisaged and should a  
21 correction be made in reverting to the half rate  
22 in and half rate out to and out of Sandheads, the  
23 other point or factor which was considered in  
24 agreeing to that new structure in 1958 and 1959  
25 will have to be revised.

26 THE CHAIRMAN: Yes. We have noticed  
27 that nobody complained about that except that the  
28 Pacific Coast Terminal stated it was too high. In  
29 the examples they gave us as exhibits they were  
30 wrong in their calculations. We had them verified







1 by Captain Eddy, and that is when we found out what  
2 was going on.

3 I think the way to correct that will  
4 not be to put half out of Vancouver and half in  
5 Sandheads, but placing the full charge at Sandheads  
6 only when the trip is bound to sea or coming from  
7 sea. That is, when a ship is leaving the Fraser  
8 River bound for a British Columbia port, there should  
9 be no charge for Sandheads, and vice-versa. But  
10 when bound to sea or coming from sea to the river,  
11 there should be a charge, otherwise the British  
12 Columbia pilots would have only a mileage charge.

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IG/rps

1 MR. LANGLOIS: Very good, my lord.

2 THE CHAIRMAN: There seems to be a  
3 discrimination there, but I was just wondering why  
4 it had stayed that way; and I understand now.

5 MR. LANGLOIS: Very good, my lord.

6 Before I go to the East Coast, my  
7 lord, I wish to express on behalf of the pilots of  
8 the New Westminster District the same appreciation  
9 I did yesterday on behalf of the pilots of the  
10 British Columbia Coast District for the co-operation  
11 received from the staff of your Commission and for  
12 the attention and work you have put into the study  
13 of their problems.

14 THE CHAIRMAN: Thank you, very much.

15 MR. LANGLOIS: Now a short recess to  
16 get the documents out, my lord?

17 THE CHAIRMAN: Yes, we will adjourn  
18 for a few minutes.

19  
20 --- A short recess.

21  
22 MR. LANGLOIS: My lord, I now deal  
23 with the Pilotage District of Saint John, New  
24 Brunswick, and I shall begin with their Brief; the  
25 Brief from the Pilots which is Brief No. 1.

26 Their first Recommendation brought  
27 attention to the extraordinary degree of knowledge  
28 and skill required on the part of pilots due to  
29 the physical tidal currents and weather conditions  
30 of the Port of Saint John, and to the fact that these





1 local conditions which are very much peculiar to  
2 Saint John and are not met elsewhere, are accentuated  
3 by the fact that 55% of the traffic of the Port  
4 occurs during the winter months, when climatic  
5 conditions are at their worst.

6 My lord, in the like vein I have  
7 referred before to the conditions in the Port of  
8 Saint John in addressing this Commission, calling  
9 it the place where they manufacture the fog. This  
10 is the result of the experience I had during the  
11 war years when I was working with convoys, when I  
12 was navigating going into Saint John during the  
13 winter to pick up and take ships out to meet the  
14 ocean convoys. This condition of fog in Saint John  
15 is coupled with a very wide range of tides and,  
16 consequently, with very strong tidal currents. It  
17 is also coupled with very severe freshets; and,  
18 in passing, my lord -- I do not wish to give evi-  
19 dence, but I am informed, and I think this was a  
20 matter of record in the newspapers, that in Saint  
21 John this year they innovated in that direction  
22 since they had two freshets. They had a winter  
23 freshet in December when we had this thawing-out,  
24 this mild weather, with the result that the level  
25 of the water at Fredericton, according to the water  
26 gauge rose to 17 feet above the summer level.

27 Your lordship and your co-commissioners  
28 have heard a lot of evidence in connection with  
29 these freshet conditions, and the additional  
30 hazard that they were having going into Courtenay







1 Bay, in particular with the larger tankers, and I  
2 shall deal further with that when I come to the  
3 brief presented by the Kent Line and Irving Refinery.

4 The pilot of Saint John, New Brunswick  
5 has to have not only a great deal of skill and a  
6 great deal of local knowledge, knowledge of local  
7 conditions, but he must be a man with nerves of  
8 steel. This expression has often been used in  
9 referring to the character of the seaman, that he  
10 had a character made of steel. I think this character  
11 is very much required of the Saint John pilot in  
12 handling large, beamy vessels into the Port and  
13 manoeuvring from berth to berth in these extremely  
14 difficult conditions created by heavy currents.

15 In their Recommendation No. 2, the  
16 pilots express their satisfaction with their present  
17 pilot boat. Your lordship and the Commissioners  
18 have been on board that boat for a tour of the  
19 harbour, and have been able to appreciate the  
20 adequacy and efficiency of this vessel.

21 In Recommendation No. 3 the pilots  
22 also express their satisfaction with the presentday  
23 calculation of inward and outward pilotage dues  
24 on the basis of draught; and adding that this  
25 calculation is particular suited to the conditions  
26 of the Port of Saint John. This is subject to  
27 what will be said later on by reference to the  
28 Brief presented by the Canadian Merchant Service  
29 Guild as to the calculation of dues on some other  
30 basis than tonnage, because your lordship will recall





1 there was a reservation made in that general  
2 recommendation in the Brief of the Guild in regard  
3 to the District of Saint John, New Brunswick.

4 Also, this Recommendation is subject  
5 to the further Recommendation which will be dealt  
6 with later on -- it is, in fact, the next Recommend-  
7 ation -- in connection with the surcharge for super-  
8 tankers. In fact, in their Recommendation No. 4,  
9 the pilots recommend that a surcharge of one cent  
10 per ton for every net ton in excess of 8,000 tons,  
11 adequately to compensate the pilots for their  
12 services in navigating large supertankers, should  
13 be added.

14 These supertankers have been recently  
15 using the Port of Saint John, as your lordship  
16 knows, on a year-round basis. In this regard, I  
17 wish to point out -- and this, at the same time will  
18 be by way of rebuttal to the written submission or  
19 plea presented by the Kent Line Limited and Irving  
20 Refining Limited's people against this recommendation  
21 -- for a surcharge of one cent per ton on super-  
22 tankers -- I wish to refer your lordship to, and  
23 I beg leave at the same time to file, a photostatic  
24 copy of an article which was published in the Lloyd's  
25 List & Shipping Gazette of Friday, October 30th,  
26 1964, entitled "Handling of Big Tankers."

27 This will be Exhibit -- Mr. Nadeau?

28 THE SECRETARY: Exhibit No. 1444.

29 MR. LANGLOIS: Exhibit No. 1444.

30 Before filing this clipping from the





1 Lloyd's List & Shipping Gazette, I wish to say that  
2 this is a report of a meeting of the United Kingdom  
3 Pilots' Association which took place on board the  
4 H.Q.S. WELLINGTON on October 29th last, and I quote  
5 the following paragraph from this clipping which, to  
6 my mind, my lord, applies to Saint John, New Brunswick,  
7 as well as to the St. Lawrence River and other  
8 restricted channels or pilotage waters. This  
9 paragraph reads as follows:

10 "In support, Mr. R. Donovan, London  
11 (North Channel) said pilots had learned  
12 to live with the big ships, but,  
13 nevertheless, the time had come when  
14 owners should be urged to do their  
15 utmost to minimize the risks involved  
16 in navigating these ships in pilotage  
17 and coastal waters. It seemed that  
18 the maritime expert had failed to  
19 hold his own with the economist.  
20 Mr. Donovan said that when the engines  
21 of a large tanker or bulk carrier were  
22 put astern these ships were virtually  
23 uncontrollable."

24 I wish also to quote another paragraph  
25 of the same report, which goes as follows:

26 "Mr. Levack said it was time that  
27 international legislation was brought  
28 into force fixing minimum astern power.  
29 In the Strait of Dover, he said, it  
30 was necessary to navigate the big tankers







1 "at full speed, yet the width of the  
2 channel was in places only two cables  
3 -- which was just about the length of  
4 these big ships. An astern movement  
5 would put them ashore in no time."

6 And then the following quotation within  
7 the main quotation, which would apply also to the  
8 District of the Fraser River, goes as follows:

9 "'I think it is about time that a  
10 new Samuel Plimsoll came forward and  
11 fixed legislation on the trim of these  
12 ships, or got owners to put the bridge  
13 in the proper position,' he said.

14 "'The forward vision from the conning  
15 position to the water line on a big  
16 tanker is one and a quarter miles.'"

17 I think these statements show the  
18 difficulties in the handling of these supertankers  
19 or these giants of the sea in restricted pilotage  
20 waters anywhere in the world.

21  
22 --- EXHIBIT NO. 1444:

Photostatic copy of  
Report from Lloyd's  
List & Shipping Gazette,  
Friday, October 30th,  
1964, entitled "Handling  
of Big Tankers."

23  
24  
25  
26 THE CHAIRMAN: When they are talking of  
27 supertankers, do they define what kind of vessel it  
28 is, because what might be a supertanker at one  
29 place might not be at another, because we know the  
30 supertankers calling at Saint John are not the great





1 supertankers we have now.

2 MR. LANGLOIS: Probably I should have  
3 said that at the very outset, and I am glad your  
4 lordship has made the point. The supertankers are  
5 similar to those used at the Port of Saint John  
6 to which reference is made in the pilots' brief, and  
7 Mr. P.A. Levack of London (Channel) said in the  
8 same article:

9 " . . . that a 5,000-ton-dead weight  
10 turbine-powered, single-screw tanker  
11 travelling at full ahead required 12-1/2  
12 minutes to stop; during that time we  
13 travelled one and a half miles and  
14 drifted three-quarter mile off course.  
15 He considered that all tankers of  
16 20,000 tons dead weight, and over  
17 should be fitted with twin screws,  
18 twin rudders, and with two athwartship  
19 propulsion units, and that the astern  
20 power should be at least 75% of ahead  
21 power."

22 COMMISSIONER SMITH: Mr. Langlois,  
23 along the line of his lordship's question with regard  
24 to what is a supertanker, would it be proper to  
25 interpret the recommendation in the Pilots' Brief  
26 with regard to the surcharge of one cent per ton  
27 for every net ton in excess of eight thousand tons  
28 this way: would anything over eight thousand tons  
29 net be considered a supertanker?

30 MR. LANGLOIS: Yes, this is the correct





1 interpretation. Captain Cumyn is adding this would  
2 represent about a 20,000-ton dead weight tanker,  
3 8,000 tons net registered tonnage.

4 COMMISSIONER SMITH: One more question:  
5 we had some evidence in Saint John there were tankers  
6 lying outside waiting to get in, waiting for proper  
7 tidal conditions, that were up as high as 34 feet  
8 of water. What tonnage would that be?

9 MR. LANGLOIS: Are you referring to  
10 the tanker that was there when we went out on the  
11 pilot boat?

12 COMMISSIONER SMITH: Yes.

13 MR. LANGLOIS: That was a 40,000-ton  
14 dead weight tanker, and the name was the NAPIER.

15 I would remind the Commission of the  
16 evidence which was given by Captain Cumyn and other  
17 pilots also in Saint John, when the difficulty was  
18 shown in the handling of these larger tankers.  
19 In this narrow channel with a ship of that draught,  
20 with a foot or so to spare, with ships of a draught  
21 of 38 feet, I am told that with that great draught  
22 vessel, using the Courtenay Bay channel today, you  
23 have to line up your vessel with a good steerageway  
24 because you cannot resort to astern power unless you  
25 run the risk of getting your ship ashore, athwartship  
26 with the channel, and running ashore. This is also  
B3 27 in evidence.

28 This danger is greater when these  
29 large and beamy vessels are affected by the sea,  
30 rolling. They will come so close, if not actually







1 touching the bottom, that this impedes their manoeuvr-  
2 ability to quite an extent.

3 I am also instructed, my lord -- and  
4 this was in evidence also -- that a supertanker  
5 with a beam of, say, between 90 and 100 feet will  
6 have its draught increased by one foot for every  
7 degree of roll.

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1 THE CHAIRMAN: Yes, we had that in  
2 evidence. I recall one pilot explaining this; and  
3 when the ship tilted it was almost in the water.

4 MR. LANGLOIS: Now I come to recommendation  
5 No. 6, to the effect that a tenth pilot should be  
6 appointed for the district.

7 I wish to inform this Commission, if it  
8 has not been acquainted with the fact, that since the  
9 sitting there Mr. Boutier has replaced Captain Miller  
10 and he is now on duty as a probationary pilot.

11 THE CHAIRMAN: Does that mean that there  
12 are ten pilots now, or nine, because Miller has retired?

13 MR. LANGLOIS: The answer I am getting  
14 from Captain Cobham is that there are eight and a half!

15 There is Captain Alexander who is over  
16 65 and who is under extension at present. They are  
17 still short one pilot. There are nine pilots that  
18 I know of.

19 At this point I am asked by my clients to  
20 express their fear and the difficulties which they can  
21 foresee now in the recruiting of pilots with suitable  
22 experience and qualifications for the port of Saint  
23 John.

24 I was at the June sitting, I think, in  
25 Ottawa when something along this line was mentioned  
26 in reference to this practice which has developed in  
27 recent years in having some Canadian flagships manned  
28 by foreign crews, and reference was made to the  
29 M.J. Boylan. The pilots believe that they will have  
30 to revert to the old apprenticeship system of training





1 their future pilots.

2 THE CHAIRMAN: Or to another system of  
3 instruction as on the St. Lawrence -- a new scheme?

4 MR. LANGLOIS: Yes; a new scheme of  
5 apprenticeship would have to be adopted; and it is  
6 an urgent matter so far as the port of Saint John is  
7 concerned.

8 THE CHAIRMAN: We found that in New  
9 York they have an apprenticeship system whereby the  
10 young men who are going to be pilots man the boat and take  
11 it out to Ambrose Light, and they do this for so many  
12 years and they have at least that...

13 MR. LANGLOIS: I am glad you have  
14 reminded me of that, My Lord, because I had noted that  
15 as an argument in rebuttal of Mr. Bird's contention  
16 that on the west coast they would have to recruit  
17 their pilots in the future from the deep sea trade.

18 Now, My Lord, as per recommendation No. 7,  
19 the pilots of the Saint John district are satisfied  
20 with their present pension system -- pension scheme --  
21 and I need not elaborate on that point.

22 Recommendation No. 8 is that Split Rock  
23 Whistle buoy B19J should be lit. I am pleased to  
24 inform the Commission that this has been done.

25 So far as recommendation No. 9 is  
26 concerned, that the Partridge Island radio beacon now  
27 on the southern tip of the island should be lighted for  
28 night use, since it has been moved from its former  
29 position at the lighthouse, there is the same position  
30 as before existed; that is, nothing has been done in







1 this connection.

2 As for recommendation No. 10, in regard  
3 to the direction finding station at Red Head Radio...

4 My Lord, before I proceed any further with  
5 the next recommendation I am informed that the beacon  
6 on Partridge Island is lit up now, but the calibrating  
7 beacon is not.

8 THE CHAIRMAN: That was the one that was  
9 under construction when we sat there?

10 MR. LANGLOIS: Yes.

11 THE CHAIRMAN: It is completed now?

12 MR. LANGLOIS: Yes.

13 Now, as to recommendation No. 10, that  
14 the direction finding station at Red Head Radio should  
15 be again placed in operation, this is not yet in  
16 operation.

17 Recommendation No. 11 is that a cluster  
18 of piles should be constructed off the end of berth  
19 No. 1 to prevent danger of vessels grounding on the  
20 shoals. Nothing has been done about it either.

21 As to recommendation No. 12, asking  
22 that Buoy 62J at the head of the main harbour at  
23 Hilyard's Reef should be lighted on account of the  
24 construction of the new long wharf, I am told that the  
25 pilots have still to content themselves with a small  
26 buoy at this point.

27 As for recommendation No. 13, that the  
28 shallows to the westward of buoy 67.5J at the northerly  
29 end of the Courtenay Bay Channel should be dredged  
30 to facilitate the docking of vessels at the ship repair





1 wharf in Courtenay Bay, nothing has been done in this  
2 regard.

3 The same applies to the next recommendation,  
4 No. 14, that the easterly side of the junction of the  
5 Courtenay Bay Channel and the main channel should be  
6 widened to facilitate navigation of large tankers out  
7 of the Courtenay Bay channel particularly during the  
8 freshet season. I am told that it still remains  
9 at the 16-foot depth; so that this widening as requested  
10 in recommendation No. 14 has not been done.

11 THE CHAIRMAN: That is the widening at  
12 the opening, with the current which is running, to  
13 give more sea room there?

14 MR. LANGLOIS: Yes. That is exactly  
15 the meaning of the recommendation, My Lord.

16 Recommendation No. 15 is that the  
17 pilotage district should be extended to its former  
18 limits because it is frequently necessary for a pilot  
19 boat to go beyond the limitation of the district to  
20 board vessels in heavy weather. This was done quite  
21 some time ago and the pilots are grateful for this  
22 change.

23 As to recommendation No. 16, that the pilot  
24 boat should be equipped with a recording depth sounder  
25 to enable pilots to obtain their own depths in the  
26 channels, the pilot boat is still equipped with the  
27 dial type sounder which is unreliable, and due to the  
28 changing depths of the channel pilots have to have a  
29 better sounding device than that.

30 In connection with the pilot boat, also,





1 although I mentioned a while ago that the pilots were  
2 satisfied with the boat itself and with its equipment,  
3 they complained that the boat is often put out of  
4 service due to breakdown because no sufficient stock  
5 of spare parts is being kept to do the necessary  
6 maintenance and repair.

7 THE CHAIRMAN: Are you coming to the  
8 radar? There was difficulty with the radar?

9 MR. LANGLOIS: I am told, My Lord,  
10 that this is the same situation. Apparently this  
11 radar is always creating trouble. It has been hard  
12 to know if it is a lack of proper maintenance or if it  
13 is due to a faulty set. But I was discussing, My  
14 Lord, the other day a similar complaint in regard to  
15 the operating of the radio on the pilot boat at St.  
16 John's, Newfoundland, and one pilot, Captain Collinson,  
17 reminded me that they have trouble of the same kind  
18 every time the ship bumps against the wall; it  
19 apparently puts the radar set out of order.

20 I don't know if this is the cause, but  
21 I am told that in Saint John, New Brunswick, apparently  
22 this is not the cause; but the other, the failure  
23 noticed in St. John's, Newfoundland, when the ship  
24 bumps the wall -- I am told this is merely coincidence,  
25 that this is not the real cause that causes vibration  
26 great enough to disturb the radar set.

27 THE CHAIRMAN: This is very important  
28 at Saint John because of the occasions where they have  
29 to meet the ship and not to collide with the ship.

30 MR. LANGLOIS: Yes. Captain Cobham







1 also reminds me of another deficiency in the pilot boat  
2 at Saint John, New Brunswick, is that due to the fact  
3 that there is only one main generator to provide electric  
4 power to the boat, and due to the fact that the  
5 emergency set is insufficient to take a full load,  
6 it would be a very important improvement to have a second  
7 main generator installed on this boat so that the full  
8 power -- full use of the power -- could be available  
9 at all times.

10 I am told, to make a slight correction  
11 with reference to what I was informed in connection  
12 with the pilot boat at St. John's, Newfoundland, that  
13 when she strikes against the side of a ship, or when  
14 the ship is rolling at sea and they have to come along-  
15 side, it is difficult for them to do so and this  
16 apparently is causing the failure of the radar.

17 Now, My Lord, I come to recommendation No.  
18 17 which has to do with the installation of two sets  
19 of high level leading lights for the Courtenay Bay  
20 channel. I am informed that this implementation has  
21 not been dealt with, and I am asked by the pilots in  
22 the district to reiterate the request and pray for the  
23 same to be implemented as they see in this improvement  
24 an important additional aid to navigation in this  
25 difficult harbour.

26 Now, My Lord, I come to brief No. 2,  
27 which is the brief presented by H.E. Kane Agencies  
28 Limited of St. John, New Brunswick.

29 Their first recommendation is:

30 "We consider it would be beneficial if





1 a more uniform system is developed or  
2 established to define pilotage routine,  
3 particularly in regard to designating the  
4 hours for docking, undocking and shifting  
5 berth to berth in order to avoid divergence  
6 of ideas or opinions of individual pilots  
7 in this connection."

8 This, I am sure, reminds Your Lordship of the evidence  
9 which was placed before the Commission to the effect  
10 that, contrary to what has taken place elsewhere in  
11 the majority of the ports, in addition to pilotage  
12 duties the pilots of Saint John, New Brunswick, perform  
13 the function of harbour movement control; they  
14 endeavour to direct the movements of ships and to  
15 advise the shipping interests as to the advisability  
16 of contemplated movements and also as to the time at  
17 which these movements should be performed with a  
18 greater guarantee of safety to both ship and shore  
19 installations.

20 I think this is the result of this  
21 additional function that the pilots have -- this  
22 additional duty that they have -- in Saint John, and  
23 I think it is necessary at this point due to the  
24 excessive requirement of anybody charged with the  
25 moving and shifting of vessels in this harbour; and  
26 the results of this additional function which has  
27 developed there seems to be implied in this recommendation  
28 as formulated.

29 But, as Your Lordship will recall, it is  
30





1 impossible to predict in Saint John what conditions will  
2 be with any accuracy, and also, since a great degree  
3 of skill and experience in handling vessels is required,  
4 it is only human to expect that the appreciation of  
5 the various conditions, the appreciation of the risks  
6 involved in one movement of a ship or another will be  
7 different and will vary from pilot to pilot, according  
8 to the degree of skill which is attained and the total  
9 experience he has acquired; I would imagine, My Lord,  
10 that a pilot of the vast and long experience of Captain  
11 Cobham would probably, in all likelihood -- I think  
12 Mr. Irving himself would vouch for him, after the  
13 appreciation he so willingly expressed of the good  
14 service and experience of Captain Cobham -- Captain  
15 Cobham would probably, in some instances, consider it  
16 all right for him to handle a ship while a junior pilot  
17 with less experience would not; and it is also quite  
18 acceptable, to my mind, that the judgment of both  
19 is sound judgment even although they have a different  
20 appreciation of the situation.

21 Captain Cobham himself agreed that at  
22 times, in his willingness, in his desire to cooperate,  
23 to assist the shipping industry, that they would take  
24 what he described, I think, in his evidence, as  
25 calculated risks. That is why you have this discrepancy  
26 of opinion, divergence of opinion, of ideas, as it is  
27 referred to in this recommendation No. 1; and I don't  
28 think that anything can be done to correct such a  
29 situation.  
30







/AM/rps

1

Now I come to Recommendation No. 2,

2

that a qualified person be available at the pilots'

3

office to furnish information as to when vessels

4

will be docked, undocked and shifted to berth, instead

5

of having to wait for a pilot on duty to return to

6

the office or to be contacted elsewhere.

7

There again, this is a result, a

8

direct consequence of this traffic control done by

9

the pilots and also a direct consequence of the fact

10

that there is no despatching staff at Saint John,

11

New Brunswick. As your lordship will recall, the

12

despatching is done by the pilots themselves.

13

THE CHAIRMAN: On account of the

14

circumstances of the place.

15

MR. LANGLOIS: There again, my lord,

16

it is a situation which is particular to Saint John

17

because you have conditions there that are not

18

obtainable elsewhere.

19

THE CHAIRMAN: It is because it is

20

a tiny port and there is not the available water.

21

You meet the same thing to a certain extent in

22

New Westminster.

23

MR. LANGLOIS: Yes, my lord. As a

24

matter of fact, there is a comparison that could

25

be established there of certain conditions.

26

THE CHAIRMAN: The agents will generally

27

contact the pilot in charge of their vessel in order

28

to find out when they are going to leave, when is

29

going to be the next period when they could leave.

30

This is a part of the pilotage duty, the pilot's





1 job..

2 MR. LANGLOIS: And that is why I  
3 think, my lord, that these complaints, these repres-  
4 entations, or whatever complaint is indicated in  
5 this recommendation, is not founded and that the  
6 situation obtained is quite understandable for any-  
7 body knowing all the circumstances of the case.

8 THE CHAIRMAN: It is quite different,  
9 for instance, in the Port of Montreal where the current  
10 is always going in the same direction.

11 MR. LANGLOIS: The same way, yes.

12 THE CHAIRMAN: It is only a question  
13 of traffic, so I think maybe a person with enough  
14 competence and knowledge could be sitting there  
15 controlling the traffic. But it is not the same  
16 thing in Saint John or New Westminster.

17 MR. LANGLOIS: Yes, my lord, I am  
18 in full agreement with what you have just said.

19 I now pass on to Recommendation No.  
20 3 as to the advisability of a central agency to  
21 control the rotation in which vessels are to move  
22 and to determine where pilotage and tug services  
23 will be most efficiently employed.

24 There again, there is the same question  
25 of traffic control and the same particular conditions  
26 which are to be faced.

27 THE CHAIRMAN: There is a problem  
28 there, although the problem is not too much because  
29 there are only eight or nine pilots. But should  
30 there be 60 pilots, then you will see the trouble





1 there would be if any one pilot would decide when  
2 he is going to go -- trouble, you know, with the  
3 agents and the shipping interests. But with nine  
4 it might not be too difficult. There might be some  
5 internal organization to give this information, to  
6 co-ordinate and to give this information, or some-  
7 body there who could contact the pilots for the  
8 agents and obtain this information in advance.

9 MR. LANGLOIS: Yes, my lord, but I  
10 think in this respect we have the evidence of the  
11 local Supervisor, Mr. McKinnon, who himself very  
12 candidly and openly admitted he would not feel capable  
13 of giving such directions to the traffic.

14 THE CHAIRMAN: That is all right; that  
15 is not what I mean. I mean somebody at the pilots'  
16 office there who could gather this information or  
17 obtain this information for the third parties and  
18 not let the third parties chase around the pilots  
19 in order to find out which one is going to take  
20 his ship and what he is going to say. They complain,  
21 for instance, that one pilot is going to say:  
22 "If I take the ship out it is going to be this,"  
23 and then they go to another pilot and he says:  
24 "No, I am going to do it this way." So there is  
25 some confusion.

26 If the problem is worth it -- I do not  
27 know now; we will have to study it further -- but  
28 if it is really a problem for the shipping interests,  
29 then I think this could be corrected by some kind of  
30 internal organization. In New Westminster, for instance,







1 this is corrected because the pilot taking the  
2 ship in will take the ship out and therefore the  
3 agent knows who to contact.

4 MR. LANGLOIS: As Captain Cobham  
5 just remarked to me, if we could establish a routine,  
6 which is used by some pilots, to the effect that  
7 no ship movements would take place within certain  
8 periods after or before high water, then perhaps  
9 establish a tour-de-rôle -- but I do not think  
10 this would be satisfactory for the shipping people,  
11 because you have pilots who are ready and do move  
12 ships outside of these fixed periods.

13 THE CHAIRMAN: There are ships that  
14 could be moved at all times. There are ships that  
15 could be moved only at high water.

16 MR. LANGLOIS: Yes.

17 THE CHAIRMAN: So every case has to  
18 be considered on its own merits.

19 MR. LANGLOIS: That is quite right,  
20 my lord.

21 Now, my lord, I come to the Brief  
22 presented by Kent Line Limited, which contains  
23 three recommendations. The first one is the effect  
24 that there is no justification for the imposition of  
25 a surcharge of one cent per ton on every net ton  
26 in excess of eight thousand tons to compensate  
27 pilots for their services in navigating the so-called  
28 supertankers. It is claimed by the Kent Line that  
29 the surcharge will be discriminatory and unreasonable,  
30 that the surcharge will be injurious to the Port of





1 Saint John, which is already at a disadvantage in  
2 competing with the Port of Halifax in connection  
3 with steamship traffic, that this surcharge would  
4 penalize one industry only, the oil industry, includ-  
5 ing Irving Refining Limited and Irving Oil Company  
6 Limited, both of which have offices in Saint John  
7 City or County, and lastly that the Pilots' Brief  
8 and the evidence given by the pilots do not indicate  
9 that the pilots are underpaid.

10 In this respect, my lord, I wish to  
11 refer your lordship to the figures which were given  
D2 12 by Mr. MacKinnon in evidence. I do not recall the  
13 number of the exhibit. It showed the returns of  
14 the pilotage service in Saint John. I draw your  
15 attention to the fact that there has been since  
16 1960 an almost steady decline except for one year  
17 in the revenue, gross earnings of the pilots in the  
18 District of Saint John.

19 My figures, as I have compiled them  
20 as as follows:

21 "1960, gross earnings \$129,219;

22 "1961 (which was the exception),

23 total gross earnings \$133,507;

24 "1962, \$125,585; 1963, \$124,336;

25 "1964, \$124,557."

26 So there are the figures, my lord.  
27 They indicate, except for 1961, a steady decline  
28 in gross earnings, which have apparently stabilized  
29 now for the last two years at \$124,000, roughly.

30 I think this meets the argument put





1 forward in this recommendation and in the brief  
2 itself by Kent Line and the Irving interest..

3 I wish to refer your lordship to the  
4 reply to the written submission by Kent Line Limited,  
5 Irving Oil Company Limited and Irving Refining  
6 Limited, as submitted by the pilots of the Pilotage  
7 District of Saint John, which submission was filed  
8 yesterday.

9 My lord, I do not want to repeat the  
10 arguments which are contained in this reply, but  
11 with your permission I would summarize them in this  
12 way.

13 The submission, rather the written  
14 plea of the Irving interest is not supported by the  
15 evidence. Many of the statements contained therein  
16 are not a true interpretation of what was said at  
17 the hearing in Saint John, and many examples of this  
18 are given at the end of the brief, the reply by the  
19 pilots under Schedule A.

20 Secondly, the evidence has established  
21 that the pilots have always extended their fullest  
22 co-operation with the companies owned by the Irving  
23 interest.

24 Thirdly, the pilots cannot be held  
25 responsible for the difficulties resulting from  
26 freshet conditions in Courtenay Bay. After all, Mr.  
27 Irving knew of the difficulties to be expected when  
28 the decision was reached to establish his refining  
29 setup in Courtenay Bay and quite extensive evidence  
30 as to the advice that he received at the time is a







1 matter of record to this Commission.

2 As to the criticism which was levied  
3 at the pilots and which is contained in Recommendation  
4 No. 2 of Kent Line and Irving Refining Limited that  
5 the pilots were choosing tugs operated by a competitor  
6 of the company operated by the Irving interest, I  
7 think the evidence shows the contrary, and I refer  
8 the Commission to what was given as being the case  
9 in point by the Irving people.

10 It was the incident when the OCEAN  
11 HAWK was allegedly turned away by Pilot Cobham,  
12 who was in charge of the piloting of his ship, the  
13 BRUNSWICKER, and the HAMILTONIAN, both ships; there  
14 were two cases. This evidence, my lord -- I do not  
15 think it is necessary for me to quote it -- it is  
16 reported at pages ---

17 THE CHAIRMAN: I recall that Captain  
18 Cobham justified he never saw the other tug.

19 MR. LANGLOIS: Never knew that a  
20 ship was about.

21 THE CHAIRMAN: That is right.

22 MR. LANGLOIS: Anyway, this evidence  
23 is at page 2891 to '94 and 2900 to 2940 of Volume  
24 4 of the evidence. I am even reminded in this  
25 connection by Captain Cobham, my lord, that at times,  
26 practically the whole summer, there was only one  
27 tug owned and operated by the Irving interest  
28 available and that the pilots have all used their  
29 own boat to assist in the handling of these super-  
30 tankers, with the Saint John Tugboat Company to assist





1 in handling these large vessels.

2 COMMISSIONER SMITH: Mr. Langlois,  
3 before you proceed, in this reply of the pilots  
4 to the Kent Line submission, it says at page 3, the  
5 middle paragraph:

6 "He did not order the tugs but left  
7 this entirely up to Mr. Ramsay of  
8 the Dry Dock Company."

9 I presume that the policy, the practice  
10 is for the company to indicate the number of tugs  
11 that they want. I don't know about the company.

12 MR. LANGLOIS: I am told that this  
13 refers only to the Dry Dock Company.

14 Now I come, my lord, to the third  
15 Recommendation in that brief, to the effect that  
16 if compulsory pilotage -- I suppose they mean compul-  
17 sory payment of pilotage -- is to continue in the  
18 Port of Saint John, shipowners or charterers should  
19 have the right to select the pilot whom they prefer  
20 for a particular ship or its movement.

21 While this is reverting to the old  
22 system of what was known as branch pilots in Quebec,  
23 or special pilots, I think the experience in the  
24 St. Lawrence has proven that this was to be discontin-  
25 ued to Quebec and not implemented elsewhere. I do  
26 not think I need elaborate further on this point,  
27 but I wish to point out that again, when Mr. Irving  
28 was asked who would be his preferred pilot, he  
29 mentioned our good friend Mr. Cobham.

30 This concludes, my lord, my remarks





1 in connection with the Pilotage District of Saint  
2 John. Here again, I wish to express the gratitude  
3 of the pilots of Saint John for the courtesy and  
4 the devotion that this Commission has extended to  
5 them in helping them to put their case before you.

6 THE CHAIRMAN: Before you pass on to  
7 another subject, Mr. Smith has a question to ask you.

8 COMMISSIONER SMITH: Mr. Langlois,  
9 in connection with this submission that the Saint  
10 John pilots were concerned about the recruiting of  
11 suitable pilots when replacements are necessary and  
12 were giving serious thought to an apprentice system,  
13 I would like to ask has the pilots' thinking in this  
14 matter gone far enough to indicate a broad outline  
15 of any apprenticeship policy?

16 MR. LANGLOIS: Their line of thought,  
17 Mr. Smith, seems to be something along the lines  
18 of the St. Lawrence, and bring in probably this  
19 additional factor, but due to the special conditions  
20 of the Harbour of Saint John, some training on the  
21 local pilot boat would be necessary for Saint John.  
22 That is reverting, in part, to the old system of  
23 apprenticeship in Saint John.

24 THE CHAIRMAN: You are now passing to  
25 another point?

26 MR. LANGLOIS: Yes.

27 THE CHAIRMAN: So we will adjourn.

28  
29 --- A short recess.  
30







G/rps

1 MR. LANGLOIS: I shall now, my lord,  
2 deal with the Pilotage District of Sydney, Nova  
3 Scotia, and the first brief we received for our  
4 consideration is Brief No. 22, presented by the  
5 pilots of the Pilotage District of Sydney, Nova  
6 Scotia.

7 In this brief there are eight recommend-  
8 ations, the first one having to do with the physical,  
9 tidal, current and weather conditions in this Port  
10 which render the handling of ships in and out of  
11 the harbour and along the docks difficult, and also,  
12 as was in the case of Saint John, it requires a  
13 good deal of knowledge and skill on the part of the  
14 pilots. It must be added that the District is a  
15 year-round Port, even though the volume of shipping  
16 is at its highest level between April and December,  
17 including this latter month.

18 The recommendation made in this part  
19 of the brief by the pilots is that the present  
20 basic pilotage system be preserved in the Sydney  
21 Pilotage District for the safety of shipping and  
22 shore installations.

23 In this regard I wish to point out  
24 that since your Commission visited the Port of  
25 Sydney, no improvements whatever have been made to  
26 the aids to navigation, so that conditions there are  
27 as they existed at that time.

28 I wish also to bring to your attention  
29 that in addition to the climatic and tidal conditions  
30 which I have enumerated at the outset of my remarks,





1 there is also another condition which has to be met  
2 with in the spring and winter months, and that is  
3 ice in that Port.

4 Also, it must be borne in mind that  
5 during the period of stormy weather -- and God knows  
6 if we had a stretch of it this fall on the Atlantic  
7 Coast -- the Port of Sydney is a very important Port  
8 of refuge, not only for merchant vessels, but also  
9 for fishing boats, including foreign-flag fishing  
10 vessels.

11 The reason why the pilots of Sydney  
12 are asking this Commission that the present basic  
13 pilotage system be preserved is that this basic  
14 system is in grave danger of being seriously impaired by  
15 the loss of revenues, the loss of pilotage earnings  
16 which have been experienced for quite a number of  
17 years.

18 To give an example of this, my lord,  
19 I wish to refer your lordship to the amendment which  
20 was made to the general bylaw of the Sydney Pilotage  
21 District in February, 1964. As a matter of fact,  
22 this amendment was published in the Canada Gazette,  
23 Volume 98, on February 26th, 1964, exempting from  
24 the payment of pilotage dues vessels not exceeding  
25 250 tons. While taking into consideration only some  
26 and not all of the foreign-flag vessels which entered  
27 North Sydney in 1964 under this exemption, I find  
28 that a loss of revenue of \$1,599.70 was experienced  
29 by the pilots. I have here, my lord, a list which  
30 was prepared by hand and, unfortunately, I did not have





1 time to have it typed, but if your lordship wishes  
2 me to have it typed I can file it at a later stage.  
3 Otherwise I will have to file it in its present form.  
4 It gives the list of foreign vessels entering North  
5 Sydney in 1964, showing in one column the nationality  
6 of the ship, in the next column the net tonnage, in  
7 the third column the number of trips inward, and in  
8 the fourth column the number of trips outward, and  
9 the pilotage dues which would have been payable.

10 Again, I draw the attention of this  
11 Commission to the fact that this list is only for  
12 foreign-flag vessels that entered customs at North  
13 Sydney. We have not got similar information concern-  
14 ing the same class of vessel which entered customs  
15 at Sydney itself.

16 THE CHAIRMAN: But it would be  
17 available from the customs there?

18 MR. LANGLOIS: It probably would be  
19 available from the customs officer at Sydney.

20 THE CHAIRMAN: So file the document  
21 you have, in the state it is in, as Exhibit 1445, a  
22 list of foreign vessels entering North Sydney in  
23 1964, with particulars.

24 MR. LANGLOIS: Very good, my lord.

25 My lord, I wish to add this is  
26 foreign vessels under 250 tons. Otherwise they  
27 would not have been exempted.







1 --- EXHIBIT NO. 1445: List of foreign vessels under  
2 250 tons entering North Sydney  
3 in 1964, with particulars.

4 MR. LANGLOIS: Now, my lord, I wish  
5 to add that in addition to the exemption to which  
6 I have just referred, there was another loss of  
7 earnings resulting from the exemption brought about  
8 in 1960 for Canadian flag or British flag ships  
9 not exceeding one thousand tons. It is a fact also,  
10 and it is my duty to point out there, that in order  
11 to compensate for the consequent loss of revenue in  
12 the raising of this exemption to one thousand tons,  
13 a five per cent increase was added to the tariff.  
14 Here I wish to make a correction: my learned friend  
15 Mr. Duncan, counsel for the Canadian National Rail-  
16 ways, mentioned seven and a half per cent the other  
17 day. The increase was, in fact, five per cent. This  
18 increase did not compensate for the loss of revenues,  
19 as it was supposed to, and according to figures that  
20 we have arrived at -- and this can be checked at  
21 any time -- the loss of revenue resulting from this  
22 other exemption was \$13,788 for the months April to  
23 September, 1964. As I have said, those are the figures  
24 we have arrived at, and these figures could be  
25 checked for accuracy.

26 So, this, I think, bears out the  
27 fact that this fear on the part of the pilots will  
28 materialize, that the present basic pilotage system  
29 will be severely impaired, if not definitely  
30 compromised, if these decreases in pilotage earnings





1 are allowed to continue.

2 I now come to Recommendation No. 2,  
3 to the effect that the Southeast Bar fog alarm is  
4 situated too far from the turning point at Southeast  
5 Bar, and that improvements should be made to the  
6 Battery Point ranges.

7 I am informed that the fog alarm has  
8 not been shifted, but that the Battery Point ranges  
9 are now satisfactory at night, new poles and lights  
10 having been installed. But I am instructed that by  
E2 11 day, the day markers due to the background -- oil  
12 tanks, cement building tanks close up in the back-  
13 ground -- are very hard to observe and to line up;  
14 and that further improvement in this direction would  
15 be of great assistance to the pilots and all users  
16 of this harbour.

17 Recommendation No. 3 is to the effect  
18 that two pilot boats are a "must" in the District, and  
19 one of these is in need of replacement. I do not  
20 think I need to add to the evidence which was given  
21 in this respect, and it was well established, to  
22 my mind, that this second boat was necessary as a  
23 spare boat.

24 Recommendation No. 4 is to the effect  
25 that the number of active pilots should not fall below  
26 ten. There again, there is no need to add to what  
27 has been said in this respect, and I wish to inform  
28 the Commission that the number of active pilots is  
29 now at ten in Sydney.

30 I pass on to Recommendation No. 5, to





1 the effect that calculation of inward and outward  
2 pilotage based on net tonnage is satisfactory, but  
3 objection is taken to tonnage reductions in certain  
4 classes of ships. Here we refer to Schedule "B" of  
5 the brief. And that, further, it is urged that the  
6 Pilotage District should be given authority to charge  
7 dues on the basis of tonnage as given in Lloyd's  
8 Register of Shipping.

9 As your lordship will recall, evidence  
10 was given at St. John's that if there was a place  
11 where manipulation -- not to use another expression  
12 which could be much stronger -- of tonnages has been  
13 used by certain ships to avoid the payment of  
14 pilotage -- in Schedule "B" your lordship will find  
15 examples there of ships reporting reduced tonnage.  
16 For example, in one case, the case of the INVERFIELD:  
17 original net tonnage, 6,287; reported net tonnage,  
18 5,496. The ADAK: original tonnage, 5,610; reported  
19 net tonnage, 4,716. And finally, the GOLFO DI GENOVA:  
20 original gross tonnage, 7,802; reported tonnage,  
21 1,906. With the additional information given that  
22 that ship carried in excess of 11,000 tons of cargo.  
23 So this is ample evidence to establish that the  
24 basis of the calculation of the tonnage is a must --  
25 it must be changed so as to have in the future more  
26 readily ascertainable factors on which to base the  
27 calculation of pilotage dues. I wish to add, and I  
28 think this came up also in Montreal, that not only  
29 are the pilots the losers in pilotage revenues, but  
30 the customs, the government, the port authorities







1 are also losing on account of this means of trying  
2 to avoid payments of port charges.

3 THE CHAIRMAN: It is a very old story,  
4 because I was reading in the old reports from Saint  
5 John, New Brunswick, that at that time for pilotage  
6 the maximum was so many tons, so ships were constructed  
7 to be just half a ton less than would be liable for  
8 pilotage. So the shipping interests were complaining  
9 about that because they wanted to have bigger ships  
10 but not to be obliged to take pilots.

11 MR. LANGLOIS: My lord, I do not  
12 want to give evidence, but I know that in the schooner  
13 trade in the St. Lawrence, when the exemption from  
14 the statutory obligation to carry a certificated  
15 officer was under 150 tons gross, apparently the  
16 practice that even existed for shipowners was to  
17 build a false bottom on the ship for measurement  
18 purposes, which false bottom would be removed after  
19 the measurement had been made.

20  
21  
22  
23 -  
24  
25  
26  
27  
28  
29 -  
30





1 That was a long time ago.

2 THE CHAIRMAN: So that the new owners now  
3 do not resort to things like that?

4 MR. LANGLOIS: No.

5 COMMISSIONER SMITH: Before you pass on  
6 I think I have something that doesn't sound quite  
7 correct in my notes here. Speaking about the last  
8 ship that you mentioned, the GOLFO, according to my  
9 notes the gross tonnage by Lloyd's Registry is 7,635  
10 tons and the net -- and this is the figure that I think  
11 might be wrong -- is 1846. Would that be right?

12 MR. LANGLOIS: No; that was 1906, My  
13 Lord.

14 COMMISSIONER SMITH: Yes; but is that in  
15 Lloyds Registry?

16 MR. LANGLOIS: That was the reported net  
17 tonnage. The original gross tonnage was 7000. We  
18 did not have the original net tonnage; but we concede  
19 that a ship having an original gross tonnage of over  
20 7000 tons that it is impossible for her to have a  
21 net tonnage of only 1906.

22 COMMISSIONER SMITH: I understand that;  
23 but I thought -- going back a little -- that you were  
24 suggesting that the tonnage be based on what is  
25 recorded in the Lloyds Registry.

26 MR. LANGLOIS: Yes.

27 COMMISSIONER SMITH: That is correct, is  
28 it?

29 MR. LANGLOIS: Yes.

30 COMMISSIONER SMITH: Then, I think my





1 notes are wrong. They read this way, that the gross  
2 in Lloyd's is 7000 odd tons and then -- and this is the  
3 figure that disturbs me a bit, because it doesn't seem  
4 right -- the net is 1846. That is not in Lloyd's  
5 Registry.

6 MR. LANGLOIS: That was the reported net...

7 COMMISSIONER SMITH: That wouldn't be  
8 right.

9 MR. LANGLOIS: That wouldn't be right.

10 COMMISSIONER SMITH: No; I think I will  
11 have to change that.

12 MR. LANGLOIS: By the way, I am informed  
13 that the figure of 1906 which appeared in the brief  
14 was taken from the pilot's source form and that was  
15 what was reported.

16 COMMISSIONER SMITH: But that doesn't  
17 mean that that is the Lloyds figure?

18 MR. LANGLOIS: I stand to be corrected  
19 on this, but so far as my memory goes, I mean, she  
20 was not listed at Lloyds.

21 COMMISSIONER SMITH: I have got an awful  
22 lot of wrong information here, then.

23 MR. LANGLOIS: Mr. Jacques brings my  
24 attention to the fact that she was put in Lloyd's  
25 later on and that it is in evidence anyway. I don't  
26 recall that, but Mr. Jacques says that it was done.

27 THE CHAIRMAN: We will check that; when  
28 we come to that we will check it.

29 MR. LANGLOIS: The difficulty arose there,  
30 as Mr. Jacques points out, that there were two ships







1 with names resembling one another -- two Golfos. I  
2 don't know what the other one was; but that was what led  
3 to the difficulty of finding her in the Lloyds list of  
4 shipping.

5 Now, My Lord, I come to recommendation No.  
6 6, and there is no difficulty there. The pilots  
7 merely express their satisfaction with the present  
8 nature of the pilotage fund.

9 Then, in recommendation No. 7 the pilots  
10 state that although the pension scheme is satisfactory  
11 they feel that a conservative outlook is taken by the  
12 actuarial branch. In this regard, My Lord, I deal  
13 with this problem in the brief presented by the Canadian  
14 Merchant Service Guild, and since I am at it now, in  
15 order to avoid coming back to it later, I wish to refer  
16 to the chapter entitled "Pension Funds" at pages 29  
17 to 32 of the brief submitted by the Canadian Merchant  
18 Service Guild, and state right away that the situation  
19 outlined in the brief has been corrected -- and I  
20 should have mentioned this earlier -- not only for  
21 Vancouver -- as I stated, it had been due to possibly  
22 now transferring the fund to a private trust company --  
23 but the recommendations made in that brief regarding  
24 the distribution of the \$46,497 from the pension fund  
25 of the Sydney district was also corrected and to the  
26 satisfaction of the pilots of the dsitRICT.

27 Now I come to recommendation No. 8, where  
28 it is submitted that the present pilotage branch of the  
29 Department of Transport should be replaced by a board  
30 of pilots comprised of three members under the jurisdiction





1 of the Minister of Transport. This will be taken up  
2 this afternoon when I give the general recommendations  
3 for all districts regarding the administration of  
4 pilotage.

5 My Lord, this brings me now to the next  
6 brief in connection with the pilotage district of  
7 Sydney which is brief No. 25, presented by the Dominion  
8 Steel and Coal Corporation Limited.

9 Their first recommendation is that at  
10 Sydney pilotage dues are relatively too high in  
11 comparison to Halifax, adding that

12 "...since June 1947, the Sydney pilotage charges  
13 have been increased approximately 57½% and  
14 are, as will be seen from the undernoted  
15 comparison, much in excess of the charges  
16 in effect at Halifax."

17 What I said earlier this morning about this basis of  
18 establishing the pilotage rates in comparison to the  
19 charges somewhere else applies here, and I wish to  
20 reiterate that the principle should be rather that  
21 the charges are commensurate with the service rendered.

22 On the other hand, I am not scandalized  
23 by this increase over the years from 1947 to the present  
24 day in the pilotage charges in the Port of Halifax.  
25 When one compares this increase to other increases  
26 in the operational costs of ships and to the increase  
27 in the cost of living index in Canada I think that this  
28 increase of costs can be accepted as a modest one.

29 Also, evidence has been placed before this  
30 Commission in June here in Ottawa about the doubling





1 by Dominion Steel and Coal Corporation Limited of  
2 their tug charges for the Port of Sydney.

3 The charge was for ships using their tugs  
4 to go to their private dock, and they make it compulsory  
5 for ships going to their private dock to use their own  
6 tugs. The charge was from \$242 to \$450.

7 Anyway, as I said, there is evidence on  
8 record to this effect, which was given here in June  
9 when I filed the new rates for the usage of tug  
10 services at the port of Sydney, which tugs are operated  
11 by Dominion Steel and Coal Corporation.

12 Now comes recommendation No. 2 to the  
13 effect that

14 "...it is also Dosco's view that the  
15 number of pilots on the list at Sydney is now  
16 in excess of the actual requirements."

17 In all fairness I think they were then referring to  
18 the number which was twelve. As at present, as Your  
19 Lordship no doubt knows, the number is down to nine.

20 I think this is sufficient to cover the  
21 point raised in this recommendation.

22 In recommendation No. 3 Dominion Steel  
23 and Coal Corporation states that

24 "...no fault is to be found with  
25 the Sydney pilots services 'per se' but  
26 the costs thereof must be kept on a  
27 reasonable scale."

28 There, again, I don't think I need to further comment  
29 on what I have said and the argument which I advanced  
30 in connection with recommendation No. 1 also applies







1 here.

2 Recommendation No. 4 is:

3 "The establishment of pilot charges  
4 at Sydney on a more reasonable and relative  
5 level with other ports in the area should  
6 enhance Sydney's competitive position as  
7 a bunkering port and as a consequence  
8 contribute to the overall returns to the  
9 Sydney pilotage district."

10 Well, My Lord, it is true, and nobody would deny it --  
11 least of all myself -- that any reduction in the cost  
12 of operation not only of port facilities or port  
13 services but in the operation of any business is always  
14 welcome and is always an aim to look at, but there was  
15 evidence placed before this Commission, not by the  
16 pilots of Sydney -- not by anybody having any direct  
17 connection with them -- but a user of the service, a  
18 shipping agent himself, to the effect that the pilotage  
19 charges in effect in Sydney had nothing to do with the  
20 volume of traffic and were not irking the present or  
21 were a menace to the future of the port of Sydney.

22 I am referring to the evidence given by  
23 Mr. Lorway, and I do not think I need burden the record  
24 by quoting what he said. I know that Your Lordship  
25 and the commissioners will definitely recall that  
26 Mr. Lorway was quite definite about it. Mr. Lorway  
27 was quite definite and quite sincere in his evidence,  
28 and I wish to refer to his qualifications to speak as he  
29 did; that, in fact, he was a member of the Board of  
30 Trade of Sydney and was a member of the Transportation





1 Committee of that Board and, therefore, was representative  
2 of the businessmen of Sydney and of the users of the port  
3 of Sydney. This evidence is sufficient to refute  
4 the contention implied in the recommendation that I  
5 have just referred to.

6 My Lord, I stand to be corrected in one  
7 respect. I think I said that there were nine pilots.  
8 There are ten pilots at Sydney at present.

9 This brings me, My Lord, to brief No. 26  
10 which is the brief introduced by the Canadian National  
11 Railways, in connection with bulk pilotage in Sydney  
12 and Port aux Basques.

13 At the very outset I wish to state, My  
14 Lord, that I am not representing the pilots at Port  
15 aux Basques and I have no mandate and no intention to  
16 do so.

17 This situation at Port aux Basques is of  
18 no concern of mine. I wish, however, to point out,  
19 as the Commission knows, that now that Part VI of the  
20 Act has been proclaimed for Newfoundland the means of  
21 correcting that situation, if need there is to correct  
22 it, is there.

23 The only thing I wish to state, speaking  
24 in a lighter vein, is with regard to the remark which  
25 was made the other day by Mr. Duncan, when he mentioned  
26 that the pilots -- well, there is only one -- at Port  
27 aux Basques were earning in the vicinity of 16,000  
28 or 17,000 as compared with the 8,000 for Sydney --  
29 that either the one was underpaid or the other was  
30 overpaid -- well, being the counsel for the pilots I





1 would just say that the Sydney pilots are underpaid  
2 and would like to be paid on the basis of the pilot  
3 at Port aux Basques. At least it is a legitimate  
4 ambition for them to entertain.

5 In their submission the Canadian National  
6 Railways say in recommendation No. 1

7 "...that vessels operating in a ferry  
8 service (whether operated by Canadian National  
9 Railways or by any any other person or persons)  
10 should be wholly exempt from the payment of pilotage  
11 dues, except upon such occasions on which the  
12 services of a pilot are used on board the vessel."

13 In th is connection, My Lord, I wish first to recall  
14 the definition which was given in Sydney by Mr. Duncan of  
15 what a "ferry" was, in his mind, and I will refer the  
16 Commission to the answer he gave me when I asked him  
17 if he considered that the Cabot Strait was a ferry.

18 Even although the answer was in the  
19 affirmative, even although it was established in  
20 evidence that that ship was at times away for months  
21 from Sydney doing coastal trade on the coast of  
22 Newfoundland or Labrador -- well, if this is what  
23 Mr. Duncan calls a ferry I don't know what a ferry is,  
24 and I feel that it is a very special kind of "ferry"  
25 that he has in mind.







1 This is a coastal vessel, my lord, there is no doubt  
2 about it. I was quite surprised that my friend called  
3 the CABOT STRAIT a ferry.

4 On the other hand, I wish to draw the  
5 attention of the Commission to the last part of  
6 Recommendation No. 1, where the Canadian National  
7 Railway made the exception of such occasions on which  
8 the services of a pilot are used on board the vessel.  
9 There again, we have this user of the services who  
10 wishes to take advantage of it when he pleases but  
11 does not want to pay when he does not.

12 That is the theory, the principle that  
13 I think should be regarded, should be applied -- that  
14 if one user admits that he has to use that service,  
15 even if occasionally, he has to be called upon to  
16 share in the cost of maintenance of that service. And  
17 the Canadian National Railways, my lord -- and it is  
18 in evidence -- are users directly or indirectly of  
19 the pilotage services in Sydney. They are using,  
20 my lord, to a great extent the pilotage service of  
21 Sydney, not only for their own ships, for the ships  
22 operated or entrusted for management to them, but  
23 for chartered ships, and quite a number of them.

24 A list was given in the evidence in  
25 Sydney, and I have another list here which I am ready  
26 to file. Again, it was compiled at the last minute  
27 and it is in handwritten form. It is a list of  
28 Canadian National Railways chartered or own vessels  
29 exempted from payment of pilotage dues by amendment  
30 to bylaws in 1960 covering the period April to September,





1 1964, giving the pilotage dues that these ships  
2 should have paid had it not been for that exemption.

3           These ships, my lord, use pilots when  
4 they feel that a pilot should be used for safety  
5 reasons. And none of the ships, my lord, could be  
6 called ferries, either. I would refer to the case  
7 which occurred recently, the case of the VICTORIAN  
8 MARIE, who resorted to pilots in urgency on account  
9 of the sickness of the captain. It is a ship chartered  
10 to the C.N.R. Also, there was the case of the  
11 SILLERY, chartered to the C.N.R., who used the  
12 services of a pilot.

13           I wish to add, my lord -- I do not  
14 want to give evidence, but Mr. Duncan in his address  
15 gave quite a bit of evidence himself -- that these  
16 ships, chartered ships, which are exempted from  
17 payment of pilotage dues, who take a pilot when they  
18 please and when they think the situation warrants  
19 it, are chartered by the C.N.R., are what I would  
20 describe a superficial charter hire.

21           I know these ships very well. Most  
22 of them are owned and operated by people from the  
23 Province of Quebec. I know my friend Mr. Jacques  
24 knows them also. The VICTORIA MARIE is one of them.  
25 The CECILIE MARIE is another one, the NELSON B, the  
26 PORT ALICE EXPLORER, the STE-FOY, the SILLERY, are  
27 all Quebec-owned and operated ships chartered as  
28 what I am describing here as superficial charter hire,  
29 ranging in the vicinity of 400, 450 a day.

30           My lord, this list of C.N.R. chartered





1 or owned vessels exempted from the payment of  
2 pilotage dues by the amendment of 1960 I am ready  
3 to file in this form under Exhibit No. -- ?

4 THE SECRETARY: 1446.

5  
6 --- EXHIBIT NO. 1446: List of C.N.R. chartered or  
7 owned vessels exempted from  
8 payment of pilotage dues.

9 MR. LANGLOIS: Now I come to Recommend-  
10 ation No. 2, where it is submitted that the number of  
11 pilots appointed in any pilotage district should be  
12 no greater than the number of men who, working normal  
13 hours, would normally be required to handle the ships  
14 actually requiring pilotage services, and that,  
15 regardless of the monies collected as pilotage dues,  
16 they be paid wages commensurate with the work which  
17 they actually perform. Here I am glad to see that  
18 Mr. Duncan is agreeing with my principal in that  
19 respect, that the payment should be commensurate  
20 with the service.

21 I continue with their recommendation:  
22 if, in any pilotage district, dues are collected in  
23 excess of those required to pay reasonable wages to  
24 the necessary pilots, such excess should be paid into  
25 the public treasury in order to help to defray the  
26 cost of providing harbour facilities.

27 My lord, if Canadian National Railways  
28 have found ways and means of getting people to work  
29 for others for nothing, they have achieved something.

30 I do not think I need to comment further







1 on this, but to add that any extra earnings made by  
2 pilots can only come from extra work. This is a  
3 fact which should always be foremost in the mind of  
4 one who wants to study the situation in any pilotage  
5 district in regard to returns to the suppliers of  
6 the service.

7 Recommendation No. 3 is to the effect  
8 that the amount of work required of a pilot in the  
9 navigation of any ship bears little, if any, relation-  
10 ship to its tonnage; and since the liability of the  
11 pilot for error does not vary according to the tonnage  
12 of the ship being navigated, it is submitted that  
13 there is no sound basis for any variation in the  
14 amount of pilotage dues payable.

15 My lord, this does not take into  
16 consideration the important fact that the responsibility  
17 of the pilots is proportionate to the size of the  
18 ship he handles. It does not also take into  
19 consideration that it will be unfair to the owner  
20 of smaller vessels earning much less; it is less  
21 economical for them than the ships owned by other  
22 people who will be called upon to pay the same amount  
23 of money for the services of pilots.

24 I do not want to go any further in  
25 this regard since this will be covered in the  
26 General Recommendations contained in the Canadian  
27 Merchant Service Guild brief, which I will refer to  
G2 28 later on.

29 I pass on to Recommendation No. 4:  
30 it is submitted that, if a variation in the amount of





1 pilotage dues is to continue, a pilot who assumes  
2 control of the navigation of a ship should be  
3 responsible in damages to the extent of loss,  
4 damages or injury sustained by reason of his acts  
5 or omission or commission.

6 Here again, the Canadian National  
7 Railway is forgetting that it is a well established  
8 principle of law, a doctrine which has been followed  
9 in many cases in Admiralty Courts here in Canada  
10 and in the United Kingdom, that a pilot is there  
11 to advise, advise the master, and that at no time  
12 is he in charge of the ship. Again, this is a point  
13 which I will come to later in connection with the  
14 brief presented by the Canadian Merchant Service  
15 Guild.

16 I will now go to their Recommendation  
17 No. 5 where it is submitted that the licensing of  
18 pilots should be entrusted to the Department of  
19 Transport rather than as at present to the Pilotage  
20 Authority.

21 Well, if our friend, the Canadian  
22 National Railway had taken the trouble to look at  
23 such a book as The Canada Shipping Act, Part VI and  
24 at such a document as the Bylaw of the Pilotage  
25 District of Sydney, they would have seen that the  
26 Minister of Transport was the Pilotage Authority there.

27 It is submitted further that this  
28 should ensure greater uniformity in the qualifications  
29 of the pilots and, as a result, in the quality of  
30 the pilotage.





1                   Again, my lord, this is absolutely  
2 contrary to the facts. There is uniformity in  
3 qualifications of the Sydney pilots like there is  
4 uniformity of qualifications in all the organized  
5 pilotage districts of Canada. I do not think, my  
6 lord, I need insist on that point.

7                   Recommendation No. 6 is that it is  
8 further submitted that pilotage is as much as port  
9 facility as the provision of dockage, the dredging  
10 of channels, the locating of buoys and the provision  
11 of other safety features -- and here I am pleased  
12 to note the admission by the Canadian National Rail-  
13 ways that pilotage is a safety feature of any  
14 port. They say it should be provided by the Crown  
15 (preferably through the Department of Transport) as  
16 a port facility and that those engaged in the occup-  
17 ation of piloting should be the servants of the  
18 Crown.

19                  My lord, first of all I wish to  
20 remark -- and I think this can be very easily  
21 ascertained, either from the National Harbours  
22 Board management or the branch of the Department of  
23 Transport looking after the administration of public  
24 wharves -- that it is now the policy of both  
25 National Harbours Board and of the Department of  
26 Transport (it is, as a matter of fact, a matter  
27 of government policy now), that the users of port  
28 facilities should pay for them as they would if  
29 they were using facilities leased or rented from  
30 any private concern or individual.







1 This is borne out, my lord, in the  
2 successive increases which have been put into force  
3 by both the National Harbours Board and the Department  
4 of Transport for side and top wharfage rates and,  
5 also, the tremendous increases that have been brought  
6 about in recent years in the rentals of port facilities  
7 in National Harbours ports, such as Montreal, Vancouver  
8 and the others. The rental now is so high that some  
9 of the users have offered to the Board to build their  
10 own terminals because it would be a saving in money.

11 Here again, my lord, I don't wish to  
12 give evidence, but this is a personal fact. I  
13 happen to have something to do with a shipping  
14 company and ourselves two years ago, when we saw the  
15 charges that we had to pay in Montreal for our  
16 terminals, we offered the National Harbours Board  
17 to rent open space and build our own facilities.  
18 We would have saved a lot of money.

19 And the same applies to these port  
20 facilities at these other ports administered as  
21 public harbours by the National Harbours Board, and  
22 also these ports under local harbour commissioners.

23 It is, as I said, a matter of common  
24 policy now that these facilities should pay for them-  
25 selves -- and this is a policy which, to my mind,  
26 is the right one. The users of these facilities  
27 should pay for the cost of erecting them and maintain-  
28 ing them, and the same principle should apply to  
29 the users of any other port facilities or any other  
30 safety features such as pilotage services.





1 With this proviso, however, this  
2 exception which was made by Mr. Lalonde, I think it  
3 was, and also made by others who have preceded me  
4 in addressing this Commission, for these ports or  
5 districts where, for economic reasons, the volume  
6 of trade is not sufficient to pay for at least a  
7 bare minimum of public utilities -- because there  
8 is always the public interest which comes into play.  
9 Just the same as the Government has to subsidize  
10 railways, subsidize the ferry services, the Canadian  
11 National Railways and, to a great extent, other  
12 trade services, transportation either by air, by  
13 land or by sea, to meet the needs of new areas or  
14 outlying districts, the same thing, the same principle,  
15 the same exception is warranted in the case of ports  
16 where the volume of the trade does not, at least,  
17 for a certain period of time, suffice to pay for  
18 these services.

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G/rps

1 But as soon as this condition disappears, as soon  
2 as the trade can afford paying for the service, I  
3 think the trade should pay for it, and that is the  
4 way any free enterprises should take. Otherwise  
5 you might as well ask the Government to take over  
6 our business and write for us, and we will all then  
7 be happy as Crown employees.

8 Now I come, my lord, to the address  
9 which Mr. Duncan, counsel for the Canadian National  
10 Railways, made to this Commission earlier in the week,  
11 and I do not want to insist, but I deeply regret that  
12 he saw fit to try and make an argument out of an  
13 unfortunate event which took place in Sydney when,  
14 due to momentary illness, the then chairman of the  
15 local pilots' committee took ill on the witness stand.  
16 I say that only. I do not want to use this type  
17 of argument, but I just want to mention it so that  
18 the record will be clear in that respect, that there  
19 was nothing whatsoever to warrant reference to such  
20 an incident.

21 Now, my lord, in the course of his  
22 address Mr. Duncan referred to the future program  
23 of the Canadian National Railways in connection with  
24 its rail services in Sydney to serve the Island  
25 Province of Newfoundland, and he referred in his  
26 address to the Terms of Union of Newfoundland to  
27 Canada. If I were counsel for the pilots of Port  
28 aux Basques, I would remind him that there is a  
29 very important condition in these Terms of Union  
30 between Newfoundland and Canada, that no Newfoundlander







1 shall suffer from such union. It is there.

2 In the Cape Breton Post of December  
3 30th, 1964 -- I have the clipping here, and I am  
4 ready to file it ---

5 THE SECRETARY: As Exhibit 1447.

6  
7 --- EXHIBIT NO. 1447: Clipping from Cape Breton  
8 Post, dated December 30th,  
9 1964, entitled "Four Hundred  
10 Thousand Tons of Freight  
11 Handled at Terminus Wharf."

12 MR. LANGLOIS: There is a very interesting  
13 report on the tremendous increase in the traffic  
14 carried between North Sydney and Newfoundland. It  
15 notes that at the terminal a high of four hundred  
16 thousand tons of freight was reached last year. The  
17 number of passengers reached 103,311. The number of  
18 cars climbed to 26,017, or an increase of 4,601 over  
19 the preceding year, 1963. The tonnage handled  
20 in 1964 was 142,902 tons. I am even told there was  
21 a decrease from 1963, because they had so many  
22 passengers that in order to get the speedy turn-  
23 around of the ship, they had to leave some cargo  
24 behind. The traffic is increasing so much that  
25 that explains why the Government has to contemplate  
26 the building of an additional ferry, to which Mr.  
27 Duncan referred. The increase in passenger traffic  
28 from 1963 to 1964 was 26,413.

29 This must all be looked at in connection  
30 with this remark which took almost the form of a  
complaint made by my learned friend, when he said the





1 other day that there was no machinery for the  
2 Canadian National Railways to revise its rates, that  
3 their hands were tied in that direction. I am  
4 prepared to agree with that, that their hands are  
5 tied in the direction of having the revision of rates,  
6 but they are surely not tied when the time comes to  
7 go to Parliament to get a higher subsidy to pay for  
8 their deficits. I know the management of many ship-  
9 ping companies would like to be in that predicament,  
10 would like to have their hands tied in revising their  
11 freight rates, but who always, from day to day, could  
12 have the opportunity to go to Parliament and, for  
13 the mere asking for it, get compensation for the  
14 loss of revenue?

15 My lord, I now wish to add that a  
16 comparison was made by Mr. Duncan as between the  
17 ferry in Saint John, New Brunswick, and the ferry  
18 between Sydney and Newfoundland. In this respect,  
19 although we are dealing with ferry services, we are  
20 not dealing with the same run -- far from it. The  
21 distance run is much greater and requires much more  
22 from those who are charged with the navigation of  
23 a ship.

24 THE CHAIRMAN: The same thing in B.C.,  
25 though.

26 MR. LANGLOIS: Then you have weather  
27 conditions to take care of, ice in the winter. There  
28 again, you have this question of human endurance,  
29 and the way to correct this situation is that the  
30 C.N.R. will have to give more time off to their





1 officers or take on relief masters as the situation  
2 warrants. But, just the same, this should not take  
3 us away from this principle I have outlined, that  
4 once you have accepted the pilotage service is necessary,  
5 and that on top of it you are an occasional user of  
6 the service, you should expect to pay for the cost  
7 of its operation.

8 This, my lord, concludes my remarks  
9 in connection with this District, and I think if I  
10 tried to time it I could not have done any better,  
11 as it is now one o'clock, so I suggest we now  
12 adjourn.

13 THE CHAIRMAN: There is one problem  
14 with which we are concerned in connection with Sydney,  
15 and if you look at the law it would amount to the  
16 misappropriation of funds. Section 351 says that  
17 whenever a ship does not use a pilot, the residue  
18 of the monies paid shall go to the pilot  
19 fund of the District. So, all the money paid by  
20 the C.N.R. should go to the superannuation, and  
21 this is the law. It is not only for Sydney: we have  
22 met that in other places, like British Columbia,  
23 for instance.

24 MR. LANGLOIS: In this respect I wish  
25 to correct Mr. Duncan: your lordship referred to the  
26 possible withdrawal of exemption under Section 347.  
27 He said this had not been applied in their favour,  
28 but they have been and they are still benefiting  
29 from partial withdrawal.

30 THE CHAIRMAN: That money paid by the







1 C.N.R. should go to the superannuation fund, and it  
2 is not. It is distributed to pilots now, contrary  
3 to the law. Maybe the law is wrong and maybe it  
4 should not be that way now, but that is the present  
5 situation.

6 MR. LANGLOIS: It does not make it  
7 more legal, but it is to meet the particular problem  
8 of Sydney.

9 THE CHAIRMAN: I do not know what  
10 you think about this provision in the law, whether  
11 it should be that way. I am pretty sure this is  
H2 12 left over from the time when the pilots were hailing  
13 the ships and, therefore, when no pilot was hailing  
14 the ship they did not know what to do with the fund.  
15 The dues at that time were being paid to the pilot  
16 doing the job, and not to a pool as it is now.

17 MR. LANGLOIS: I think it dates back  
18 to the time when there was not even a pension scheme,  
19 but an assistance or benevolent fund.

20 THE CHAIRMAN: It is called "pension  
21 fund," and it is well-defined in the law. Therefore,  
22 they did not know to whom to pay the money, so this  
23 money was being paid into the pension fund. But,  
24 in any event, it is in the law, and what is being  
25 done now is altogether illegal. Somebody could  
26 question that, and somebody could be responsible.

27 MR. LANGLOIS: That is quite right,  
28 my lord.

29 THE CHAIRMAN: So we will adjourn now  
30 until this afternoon at 2:30.  
--- Luncheon adjournment.





/rps 1 --- Upon resuming at 2:30 p.m.

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MR. LANGLOIS: My lord, I am now ready to proceed with the Pilotage District of St. John's, Newfoundland, and the first item that I am proposing to take is Brief No. 15 introduced by the pilots of this District.

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In their Recommendations, the pilots at Newfoundland firstly submitted that the Royal Commission on Pilotage compare the pilotage legislation and pilotage services in Canada with legislation and services in other maritime countries of the world.

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This has been done to a great extent by this Commission and also by those who participated in its work. I need only make reference here in connection with the work which was done outside of the Commission and I know that within the Commission there was some work being done in that direction besides the trips that your lordship and your co-commissioners did outside of Canada to study the conditions elsewhere, in the United States, for example.

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But outside of this work, I feel that the Federation of the St. Lawrence River Pilots ought to be commended on the extent of the study that they made, not only of legislation but of conditions as they obtain in the United States and in Europe. I am sure that the wealth of information that they gathered in this way will be of great assistance and will be enlightening to this Commission.





1 I know that I am speaking on behalf of the pilots of  
2 the other districts of Canada when I say that we  
3 appreciate the work that they put into this and the  
4 efforts and even the monetary sacrifices that they  
5 were willing to accept in order to make this study  
6 complete.

7 In their second Recommendation, the  
8 pilots of St. John's submit that pilotage at St.  
9 John's is a necessary and important service to shipping.  
10 We need only glance at the evidence given in St.  
11 John's at the sittings in St. John's by the shipping  
12 people themselves to appreciate that this statement  
13 is quite true and representative of the situation  
14 existing, also to convince yourselves of the  
15 excellence of the service provided in St. John's.  
16 I need not, my lord, remind you of the objection  
17 that was employed in the testimony as given by  
18 representatives of the shipping industry to the  
19 reproach, if I may use that expression, which was  
20 levelled at the pilots by the Central Pilotage  
21 Authority because they were providing services outside  
22 of their pilotage, such as looking after the coming  
23 alongside of ships at night, over the weekend, and  
24 even providing linesmen's duties. It shows that  
25 there again, in this port, the pilots are bending  
26 over backwards to try and provide service to the  
27 industry that they have undertaken to serve.

28 In their Recommendation No. 3, the  
29 pilots of St. John's, Newfoundland submit that the  
30 present Pilotage Authority and pilotage service at







1 St. John's is satisfactory to the large majority of  
2 all concerned, and that no major changes are necessary  
3 or desirable.

4 Of course, they were then referred  
5 to the then existing Pilotage Authority, but with  
6 the legislation which was introduced late in this  
7 fall in the United States in Parliament, Part VI of  
8 The Canada Shipping Act has been proclaimed as of  
9 January 1st, 1965 in the District of St. John's,  
10 Newfoundland and, as a matter of fact, all the  
11 pilotage matters of Newfoundland are now under The  
12 Canada Shipping Act.

13 The pilots of St. John's accept this  
14 new situation and are happy that their representations  
15 to the effect that their former local commission  
16 should be preserved as a local authority have been  
17 realized, and this has been done, I understand, by  
18 the taking over of the pilotage of the St. John's  
19 Pilotage District by the Federal Government.

20 Now, under their Recommendation No. 4,  
21 the pilots submit that one new pilot boat is required  
22 at St. John's and that this boat should be put into  
23 service for the winter of 1963-1964.

24 Of course, this Recommendation was  
25 made while there was still time to act, but due to  
26 delays -- I do not know if it was the fault of  
27 anybody -- this has not been done. But the pilots  
28 of St. John's have been informed that this new pilot  
29 boat should be available in August, 1965.

30 In this regard, mention of this





1 situation in St. John's was made in the brief submitted  
2 by the Canadian Merchant Service Guild dealing with  
3 pilotage boats generally for all pilotage districts  
4 in Canada. The need for a new boat in St. John's  
5 is a pressing one, and I hope that the promise that  
6 this new vessel will be available for 1965 will be  
7 fulfilled.

8 Recommendation No. 5 has to do with  
9 the submission that the best location for the pilot-  
10 age station and pilot boat is at or near the present  
11 site. There has been no change made in the direction  
12 and the pilots still maintain that they can best serve  
13 their clients, the shipping industry, where they are  
14 presently, even though there are rumors about to the  
15 effect that they may be asked to move to the new  
16 Department of Transport building which has been  
17 recently erected in the western part of the harbour.

18 In their Recommendation No. 6, it is  
19 submitted that the earnings of the St. John's pilots  
20 are less than the earnings of the masters of a  
21 large percentage of ships which they are called upon  
22 to handle and less than the earnings of a large  
23 percentage of pilots on the mainland of Canada and  
24 that, consequently, measures be taken to ensure  
25 that pilots' income be commensurate with the  
26 qualifications, the duties and responsibilities that  
27 they are called upon to undertake.

28 This is a principle which I have  
29 outlined previously. Here, if a comparison is made  
30 with other districts, the pilotage districts of the





1 mainland in Canada, and if a similar comparison is  
2 made with the earnings of masters of ships which are  
3 being piloted by the pilots of St. John's, it is  
4 not used as an argument. It is used merely for the  
5 purpose of enlightening the Commission, because the  
6 pilots of St. John's, Newfoundland, like the pilots  
7 of all other districts in Canada, are abiding by  
AA2 8 this principle that their earnings should be commen-  
9 surate with the services they perform.

10 My lord, I wish to recall the evidence  
11 which was adduced in this respect and the comparisons  
12 which were established as between the earnings of  
13 masters and officers of C.N.R.-owned and operated  
14 ships and, in particular, to the evidence by Captain  
15 Puddister, who is a former C.N.R. officer.

16 Now I come to Recommendation No. 7,  
17 where it is submitted that the Government assist  
18 in providing pilots with an adequate pension system.

19 There, this is a Recommendation which  
20 to my mind is made in order to meet a special  
21 situation. One must bear in mind, in considering  
22 this Recommendation, the fact that Newfoundland is  
23 a new Province in our vast country, that before  
24 Confederation the Newfoundland pilotage was  
25 administered under local legislation and that  
26 consequently the provision existing elsewhere in  
27 Canada at the time for providing for the retirement  
28 of pilots did not exist in Newfoundland. It might  
29 be necessary, at least at the beginning of this  
30 new era in the pilotage history of Newfoundland --







1 meaning by "this new era" the fact that they are  
2 coming under a new system, under legislation similar  
3 to that applicable to all other pilotage districts  
4 of Canada -- that some government intervention might  
5 be necessary in order to provide them with an  
6 adequate pension scheme. In that respect, my lord,  
7 I am repeating what I will have to say, but I will  
8 try and avoid being repetitious when I get to the  
9 district involved.

10 Newfoundland is not the only District  
11 where a pension scheme is in need of outside inter-  
12 vention. The same situation obtains in Halifax, where  
13 pilots cannot look to the future, to their attainment  
14 of retiring age, with too much anticipation.

15 I am changing here, my lord, for the  
16 sake of saving time, the order that I had previously  
17 established for my address in making a second  
18 exception. I was to deal with the specific recommend-  
19 ations mentioned in the Guild's brief only in Part  
20 2 of my address, only if I was through with all the  
21 other districts. But since I have dealt with the  
22 specific recommendations of that brief in regard to  
23 the pension funds in connection with the British  
24 Columbia Coast Pilotage District and the Sydney  
25 Pilotage District, I might as well deal with the other  
26 specific recommendation in that brief having to do  
27 with coastal pilotage for Newfoundland. And I refer  
28 the Commission here to pages 12 and 15 of the brief  
29 of the Canadian Merchant Service Guild and to the  
30 chapter entitled "coastal pilotage."





1 I need not here, my lord, I believe,  
2 repeat the basic thinking as outlined in paragraphs  
3 26, 27, 28, 29, 30, 31 and 32 of the Canadian Merchant  
4 Service Guild's brief. I would rather wish to refer  
5 your Commission to the evidence which was adduced  
6 in St. John's when your Commission was acquainted  
7 with the situation that the pilots of the Pilotage  
8 District of St. John's were called upon to do coastal  
9 pilotage, to pilot in particular coastal tankers  
10 along the coast, and were providing an excellent  
11 service to these ships, especially when they are  
12 called upon to navigate under arctic ice conditions.

13 Also, in the course of the same  
14 evidence, your Commission was acquainted with this  
15 awkward situation which at times obtains when,  
16 instead of the shipping industry being provided with  
17 these competent, qualified and experienced pilots,  
18 they have to resort, due sometimes to the error of  
19 a shipping agent who has none or very little exper-  
20 ience with shipping, to men lacking in experience,  
21 in qualifications for that type of navigation.

22 And, my lord, this can lead only to  
23 one conclusion: if a service is to be provided and,  
24 if this service by its very nature has a character  
25 of public utility, public service, I think the best  
26 available service should be provided. There should  
27 not be any under-average, to say the least, quality  
28 in that kind of service.

29 We have heard testimony from the  
30 shipping industry. We have heard the other day, earlier





1 in this week, the statements made by both Mr. Mahoney  
2 (in particular Mr. Mahoney) and Mr. Brisset, in  
3 referring to these multi-million dollar ships. We  
4 have heard, also, these two able counsel representing  
5 the shipping industry referring to the importance  
6 of that trade, of the shipping trade. One of them  
7 even mentioned that that trade was essential to the  
8 two great nations of the northern continent, to wit  
9 the United States and Canada.

10 This should be sufficient to convince  
11 everybody interested in the sphere of activities to  
12 come in agreement with me when I say that it is  
13 the responsibility of this country to see that the  
14 best that can be obtained is available in this  
15 field. And this is the essence of the recommendation  
16 made by the pilots of the Pilotage District of  
17 St. John's, Newfoundland.

18 This Recommendation, in addition to  
19 what I have just said, meets with an argument, a  
20 principle which was outlined by Mr. Brisset the other  
21 day when he stated, and quite rightly so, that  
22 pilotage was a business, yes, but that one must  
23 not forget that it is also a public service. I  
24 agree with that and so do the pilots of St. John's,  
25 and that is why they add that this service to the  
26 coast of Newfoundland should be provided by fully-  
27 qualified, fully-licensed, fully-competent, fully-  
28 experienced pilots and whose qualifications, competency  
29 and experience, would have been recognized by a  
30 public authority.







1 Yes, my lord?

2 THE CHAIRMAN: The principle you have  
3 just outlined there seems to be right, but from the  
4 evidence we have heard it is not within the policy  
5 of the Department or the Government at present. For  
6 instance, where pilotage is necessary on account of  
7 the features of the place, if the traffic does not  
8 warrant more than one man to be a pilot, they will  
9 not create a district and they will not see that  
10 this man is competent by having him provided with  
11 a licence. So therefore if there is only one man  
AA3 12 there would not be a district and there would be  
13 no licensed pilot.

14 But it might be in the public interest  
15 that in those places there be the best available  
16 service in pilotage and that the shipping industry  
17 get some guarantee that the man who offers the  
18 service there is competent.

19 MR. LANGLOIS: Yes, I agree entirely  
20 with that, my lord, that to every rule there must  
21 be the necessary exceptions.

22 THE CHAIRMAN: I do not know whether  
23 it should be an exception.

24 MR. LANGLOIS: But I think we have to  
25 face the situations as they exist. But whenever  
26 there is a competent service available, as it is  
27 in the case of St. John's, and they are willing  
28 to perform it, I think there it should be done, because  
29 it can be done at no extra expense. It can be  
30 done, as has been established in this brief and in the





1 evidence, without causing any prejudice, without  
2 deterioration to the present service.

3 THE CHAIRMAN: Yes, although the  
4 argument is going to be that it would add to the  
5 workload, so if they can handle the workload now,  
6 it is maybe because there are too many for St. John's.

7 MR. LANGLOIS: I think the evidence,  
8 my lord, bears out the fact that most of this  
9 pilotage service is done by the pilots of St. John's  
10 but it is done outside as extra-curricular duties,  
11 if I may use that expression. If they used some  
12 inexperienced man who probably would undercut the  
13 rate and not provide at the same time as good a  
14 service, that would probably discourage the qualified  
15 man from going ahead and offering himself.

16 THE CHAIRMAN: One solution -- and  
17 I am not talking about the coast of St. John's --  
18 would be, it seems to me, in places outside of  
19 districts created to provide these men with licences  
20 and that they be free enterprisers, but licensed  
21 that they need these requirements and so on.

22 MR. LANGLOIS: I intend to deal with  
23 that when I come to these outlying districts later  
24 as they exist, particularly in northern New Brunswick,  
25 northern Nova Scotia and in the lower St. Lawrence,  
26 the Baie de Chaleur area.





1 In spite, My Lord, of the example of  
2 the situation I have defined a while ago, the  
3 qualified pilots of St. John's were meeting some  
4 problems from inexperienced men, which occurred in the  
5 spring of 1964, when pilots of the St. John's pilotage  
6 district were called upon to go out and to take back  
7 in some ships that had been caught on the coast of  
8 Newfoundland under ice conditions because they were  
9 handled by men inexperienced in meeting and facing  
10 arctic conditions and who had caused damage to these  
11 ships.

12 I think this shows that if the services  
13 of the qualified men had been used at that time the  
14 shipping industry would have benefited.

15 But you cannot blame the shipping industry  
16 for that. I am sure in this case the St. John's  
17 pilots were there but somebody probably offered himself  
18 at a lower rate, and, not being advised as to the  
19 qualifications of the second man, his services were  
20 accepted.

21 I think that is a quality of service which  
22 is essential and in the interests of the shipping  
23 industry itself.

24 I think I will file, My Lord, since I have  
25 referred to them, the letters of commendation -- the  
26 many letters of commendation -- which have been written,  
27 and these are unrequested letters of commendation by  
28 masters of ships who have in the past used the services  
29 of the pilots of the St. John's pilotage district in  
30 these coastal waters of Newfoundland.







1 Now, in the last paragraph of this chapter  
2 I state in the brief that no similar recommendation is  
3 coming from the other pilotage districts although  
4 some of the coastal pilotage districts of the eastern  
5 Canada pilots have expressed the opinion that it would  
6 be well to consider and study carefully any proposal  
7 in this direction, although at the time they were not  
8 prepared to make a specific recommendation in that  
9 respect.

10 Coastal pilotage is nothing new. One  
11 has only to refer to the situation on the west coast  
12 where coastal pilotage has been performed by an  
13 organized pilotage district.

14 Now, My Lord, I come to brief No. 18  
15 which is the brief presented by the St. John's Harbour  
16 and Pilotage Commission. I do not think I need to  
17 elaborate on the one recommendation made in that brief,  
18 which, as Your Lordship will recall, suggests that the  
19 district of St. John's be adapted along the lines of  
20 Halifax, Sydney and Saint John, New Brunswick, and that  
21 the pilots be on a comparable financial basis; and,  
22 alternatively, that the present commission system be  
23 retained, but that the administrative expenses be paid  
24 by the public treasury -- the federal treasury.

25 Since, as I mentioned a while ago, Part VI  
26 of the Canada Shipping Act has been proclaimed for not  
27 only St. John's, Newfoundland, but the whole of Newfound-  
28 land, this recommendation is out of date now. The  
29 situation has been corrected in one direction, and I  
30 am told that the Commission, which is still the existing





1 Commission, is quite satisfied with the set up.

2 This concludes, My Lord, the part of  
3 my address dealing with the pilotage district of St.  
4 John's, Newfoundland. I know that this Commission  
5 has received suggestions and up-to-date evidence of  
6 what the situation in Newfoundland is, but I am not  
7 mandated to speak on behalf of the pilots of these  
8 districts and consequently I will dispense with any  
9 further comments.

10 Here, again, I am making myself the  
11 interpreter, the spokesman, for the pilots of St. John's,  
12 Newfoundland, in expressing their gratitude for the  
13 trouble you took visiting their districts and explaining  
14 things to them and listening to their evidence and  
15 representations and visiting their harbour and for the  
16 consideration that you have given so far and, they are  
17 sure, that you will continue to give, to their  
18 representations and to the problems existing in their  
19 area.

20 With this, My Lord, I go on with the  
21 pilotage district of Halifax and with brief No. 24 which  
22 was submitted by the pilots of that district.

23 Here I wish only to comment briefly on  
24 that district because, My Lord -- and in all fairness  
25 I have to remind the Commission of this -- as counsel  
26 for the pilots I again represent only half that district,  
27 because only half of the pilots of that district are  
28 Guild members -- but this is not a reason for me to  
29 do half a job.

30 We have instances where we have to pay for





1 half a pilot; I don't think we should have to pay  
2 for half a lawyer; but, My Lord, I have received  
3 instructions from my learned friend, Mr. Dickie,  
4 counsel for the other group of pilots in the general  
5 area, as the local counsel for the pilots of the  
6 Halifax district, that they were satisfied with the  
7 representations made when the Commission was in Halifax,  
8 and that in view of the fact that there is still a  
9 possibility that further evidence might be received  
10 by this Commission in respect to a brief having  
11 somewhat to do with their district -- and I am referring  
12 here to the Imperial Oil Limited brief -- they might  
13 have to have that before them to appreciate the  
14 situation to the fullest degree -- and I am referring  
15 here to the communications that I have exchanged with  
16 your Commission through Mr. Nadeau regarding the  
17 possibility -- and I hope it won't be necessary to do  
18 so -- probably of obtaining further evidence in regard  
19 to the brief submitted by Imperial Oil, when, if found  
20 necessary, a further submission would be made.

21 THE CHAIRMAN: We have received lately  
22 a new communication from Mr. Dickie on that and you  
23 have received a copy of it, have you?

24 MR. LANGLOIS: Yes.

25 THE CHAIRMAN: When we come to it we  
26 will study the problem and we will try to have the  
27 facts that he wanted to prove admitted by the other  
28 party; and if that is not possible then we will try  
29 to appreciate the extent of the importance of the  
30 problems and then we will inform you as to what should







1 be done.

2 MR. LANGLOIS: Thank you, My Lord.

3 With that, I will just barely glance at  
4 these submissions of the Halifax pilots and briefly  
5 summarize their argument.

6 In their recommendation No. 1 they  
7 recommend that compulsory pilotage should apply to all  
8 ships of foreign registry and to all ships of Canadian  
9 registry over 1000 tons.

10 So far as foreign flagships are concerned  
11 this meets the suggestion made by Imperial Oil Limited.  
12 As to the recommendation for Canadian flagships over  
13 1000 tons, well, this is a similar exemption as it is  
14 presently in existence in the district of Sydney.

15 The Halifax pilots wish, however, to draw  
16 the attention of this Commission to the serious hazard  
17 to navigation, and especially the danger to the public,  
18 of even smaller coastal tankers due to the type of cargo  
19 they carry in their holds; and with this I wish to  
20 remind the Commission of the experience in the past  
21 in Halifax. We cannot blame them for being a bit  
22 nervous when one recalls the disaster involving the  
23 MONT BLANC when she blew up with a load of explosives  
24 in the harbour, destroying a good 30% of the town,  
25 and also of the collision which occurred during the  
26 last war when the vessel TRONGATE which was loaded with  
27 ammunition and explosives was in collision with another  
28 ship in the harbour and had to be beached on George  
29 Island after having been sunk by gunfire by another  
30 naval vessel in order to prevent an explosion.





1                   Also, I wish to recall the evidence which  
2 was given in Halifax by the local pilots, which evidence  
3 was confirmed by the Queen's Harbourmaster as to the  
4 presence of secret cables and underwater gear installed  
5 for national defence purposes in the harbour, the  
6 location of which is kept confidential and is not known  
7 to a man who has no local knowledge; and in this  
8 respect some even of the local men lack knowledge in  
9 connection with those apparatus; but the fact that they  
10 know that they exist at least no doubt will give them  
11 the good idea of inquiring from the Queens' Harbourmaster  
12 as to where they could properly anchor ships in the  
13 harbour.

14                   In speaking of the Queen's Harbourmaster  
15 I wish to remind the Commission that this is an  
16 important naval base and that the functioning of this  
17 port is shared as between the National Harbours Board  
18 for that part used by commercial vessels and by the  
19 Queen's Harbourmaster for the other section used by  
20 the Navy. This further complicates matters and makes  
21 it a greater problem for the man lacking local  
22 knowledge and experience making use of this port for  
23 the first time.

24                   I think this is a factor which must be  
25 kept in mind in considering the evidence in Halifax.

26                   As for the recommendation dealing with  
27 the responsibility and status of the pilots, the Halifax  
28 pilots want to retain their status and regard as  
29 highly unacceptable, by over half of the active pilots,  
30 the suggestion which has been made that they become





1 public servants under the prevailing wage rate employee  
2 system. In this respect I wish again to refer --  
3 and I am trying not to irk anybody in saying this --  
4 to the over-zealous attitude which was taken, or  
5 the over-zealous approach which was used, by some  
6 officials acting on behalf of and in the name of the  
7 pilotage authority in trying to get the Halifax pilots  
8 to change their present status.

9 I need not say any more than this. The  
10 time for recriminations, the time for reviving old  
11 conflicts has passed, and I think the time has come  
12 to bury, so to speak, the war hatchet and try to get  
13 together and find solutions to the problems, find the  
14 causes of the conflicts that have arisen, and by  
15 putting the best of ourselves, the best of our  
16 abilities together, to find happy solutions to the  
17 existing conditions. I think this attitude has  
18 been adopted by all concerned.

19 My Lord, I wish to open a parenthesis  
20 here to say that if this Commission attained only  
21 this happy situation that we have reached, that the  
22 pilots, the Shipping industry, the officials charged  
23 with the administration of pilotage, have achieved a  
24 better understanding of their mutual problems through  
25 their knowing each other, then this Commission would  
26 have achieved a tremendous task and this would be to  
27 the good of all concerned.

28 I have no doubt whatsoever about that.  
29 And, My Lord, I know that this Commission is going to  
30 do a great deal more than that; but this change of







1 mind, this new attitude which has been created by  
2 this meeting together, by this exchange of views for  
3 a period of two years, will help the government of  
4 the day, when the time comes to implement the  
5 recommendations that this Commission is going to make --  
6 it will make the task that much easier for those who  
7 will then be charged with the responsibility of  
8 government in Canada.

9           The other recommendations in this brief,  
10 having to do with the administration, which is considered  
11 generally satisfactory, and with the pilot boats need  
12 not be further commented on, except for this bit of  
13 explanation in regard to pilot boats, that I think  
14 the pilots are right in asking that the practice of  
15 using these boats for other duties and, therefore,  
16 making them unavailable when needed for pilotage  
17 service, and also the practice of carrying out the  
18 annual refits and overhauls of these boats during the  
19 busy winter season instead of doing them during the  
20 summer season -- because in Halifax, as you know, the  
21 volume of traffic is in the winter -- could be changed  
22 so as again to keep these boats readily available and  
23 in good shape when they are needed most.

24           The pilots also are taking issue --  
25 as has been done in other districts -- with the method  
26 of computing the statistics of their workload and feel  
27 that standby time should be taken into account.

28           Again, they also suggest -- as has been  
29 done in other districts -- that no changes or  
30





1 modifications whatsoever in the old regulations --  
2 the bylaws -- should be made without consultation  
3 at least with the local pilots' committee. There  
4 has been again some going over the head of the local  
5 committee for certain matters and the pilots pray that  
6 this will not repeat itself.

7 Then, the principle outlined as regards  
8 the financing of the pilotage service, both by the  
9 users of the service and on occasion by subsidy from  
10 the government meets what I have said in regard to the  
11 cost of pilotage in other districts where the traffic  
12 cannot bear the cost -- the overall cost -- of  
13 administration and operation of the pilotage system.

14 Again, the pilots are making representations,  
15 as has been done in other districts -- I think it has  
16 been done, in particular, in connection with the  
17 St. Lawrence River district -- that care must be taken  
18 so as to see that no payments of pilotage dues are  
19 not made due to carelessness in the collection of these  
20 dues, and they suggest that pilotage dues should be  
21 paid in cash in advance on obtaining clearance from  
22 the harbour. As an example, companies -- shipping  
23 agents -- have gone bankrupt in Montreal with  
24 consequent loss to the pilots because they could not  
25 collect the accounts for pilotage dues which had been  
26 earned but not paid.

27 Then, on the standards of licencing,  
28 the standards of examinations for the position of  
29 pilot, they say they should be maintained, but the  
30 pilots of Halifax say that the situation is becoming





1 increasingly more difficult as regards obtaining  
2 qualified applicants, and they even suggest that  
3 consideration might be given to a reduction in the  
4 two years in the period of service as master of  
5 a vessel engaged in coastal trade; and, again, that  
6 this could be compensated for probably by a system  
7 of apprenticeship comparable to the one suggested for  
8 Saint John, New Brunswick, and based on what is taking  
9 place in the province of Quebec.

10           Then, I have already mentioned the  
11 difficulties in which the pilots in Halifax are  
12 placed in regard to pension benefits and to the  
13 unsatisfactory manner in which the pension scheme  
14 obtaining in Halifax is presently being administered.  
15 It is, My Lord, unthinkable that some of the Halifax  
16 pilots are contributing part of their earnings --  
17 5% per annum -- for benefits that they might never  
18 get in regard to pension. It is submitted by the  
19 Halifax pilots that in order to remedy this situation  
20 -- and this is the recommendation made by the pilots,  
21 too, of St. John's, Newfoundland -- it is submitted  
22 that a formula should be found whereby these pilots  
23 in Halifax could probably benefit under the provisions of  
24 the Public Service Superannuation Act. This is the  
25 idea. It is not claimed that no other scheme can be  
26 developed, but it is suggested and recommended that  
27 something be done in order to remedy the present  
28 situation.

29           Now, My Lord, I come to a brief to which  
30 I have referred already but which I want again to







1 refer to quite briefly owing to what I have said in  
2 this connection, and it is brief No. 23 -- the brief  
3 of Imperial Oil Limited.

4 In case we have no opportunity to make  
5 further representations I wish briefly to comment on  
6 his brief, which is brief No. 23 -- I don't know if  
7 I mentioned the number to Your Lordship -- and draw the  
8 attention of the Commission to the paramount  
9 recommendation contained in this brief to the effect  
10 that "...all foreign going shipping, regardless  
11 of flag, be required to take pilots and to pay pilotage  
12 dues for such service."

13 I read this out because this recommendation  
14 is coming from a very important company -- a very  
15 important and large company -- using a great number  
16 of foreign flag ships in the tanker business that they  
17 are operating the world over; and I must say, My Lord,  
18 that I cannot think of any other shipping company, or  
19 shipping concern, in Canada using a greater tonnage  
20 of foreign flag ships than Imperial Oil Limited, and  
21 still they make such a recommendation. This, I think,  
22 is indicative that this company has realized that our  
23 harbour facilities, our important trade routes, our  
24 expensive waterways, are to be protected, and that the  
25 foreign master, who calls only occasionally at our ports,  
26 who uses only occasionally our river and pilotage waters,  
27 has not the necessary local knowledge and experience  
28 to safely handle his ship.

29 The second recommendation contained in this  
30





1 brief is the one having to do with the exemptions  
2 for coast-wise vessels -- coastal vessels -- in  
3 the districts below Quebec, and including Quebec,  
4 such as Les Escoumains and those districts of the  
5 Maritime provinces.

6 Although I must point out, as Your Lordship  
7 will recall, that in his evidence Captain Kelly,  
8 the marine superintendent of Imperial Oil, made  
9 reservations that he wasn't so much interested in  
10 getting such exemption for his coastal vessels in the  
11 Quebec, Escoumains district -- coming from Captain Kelly  
12 I know, I am sure, that he was making no mental  
13 reservations when he said that he meant his  
14 recommendation -- I am sure, so far as this district  
15 was concerned, he had no doubt in his mind that his  
16 recommendation was not too serious.





1 I think, my lord, that this same line of  
2 reasoning should apply to other ports as well, to the  
3 other districts of the maritimes, for two outstanding  
4 reasons, to my mind, my lord. Below Quebec the pilotage  
5 is port pilotage -- the pilotage in Sydney, the pilotage  
6 in Halifax, the pilotage in St. John's, Newfoundland,  
7 the pilotage in Saint John, New Brunswick is port  
8 pilotage, and, therefore, it is a pilotage service  
9 rendered in close proximity to expensive harbour  
10 installations, in narrow entrances to harbours where a  
11 major grounding or major accident may block for days  
12 on end, if not for weeks or months, the entrance to  
13 that harbour.

14 The second reason is that due to the  
15 high-explosive character of the cargoes handled in these  
16 ships, any major collision could result in a major  
17 disaster with not only expensive and great loss to  
18 property but to human life as well, which is still more  
19 serious; and these two factors have, to my mind, to be  
20 considered and should never be lost sight of. And  
21 besides, to my mind, there is no justification for  
22 granting these so-called white flag licenses to vessels  
23 not knowing that the experienced master who is on the  
24 vessel today in charge will be there tomorrow, he may  
25 be away on leave, he may be sick, or he may be quite  
26 healthy but dead tired in his bunk when he is going  
27 through dangerous waters. There again, my lord, this  
28 is a case of human endurance, and Mr. Geddie himself  
29 has given us an example of this when he said, "My  
30 masters could pilot our ships through Quebec to Montreal,







1 but due to the long run and the seaway they have been  
2 on duty" -- and we know that on the seaway it is the  
3 chief officer that is up all the time -- "And we can't  
4 take a chance on them taking their ships from Quebec  
5 to Montreal". If it is true there, it is true any-  
6 where else. Physical endurance has no territorial  
7 limits, and it exists wherever the ship is and wherever  
8 the captain is called upon to perform his task.

9 I do not think, my lord, I need add to  
10 this, except to remind you in the same line of thought  
11 that Mr. Mahoney himself said this might be difficult  
12 and, at least, it would be impossible immediately to do  
13 away with pilotage in the district of Quebec and  
14 Montreal, that it will take time, and he said that at  
15 the present time -- I am sure I understood him correct-  
16 ly -- at least 95% will have to use pilots.

17 My lord, to fill in the evidence we  
18 have received from both witnesses appearing before this  
19 Commission and coming from Eastern and Western Canada  
20 as well, the evidence had the effect of establishing  
21 the trend toward bigger, larger, faster ships, knowing  
22 that the economists have beaten the naval architects,  
23 as was shown in this article from Lloyd's Shipping  
24 Gazette I quoted yesterday, that these huge monsters  
25 of the sea are quite hard to handle in restricted  
26 waters. Bearing that in mind, my lord, I do not know  
27 if it is the time to take a chance and reverse the  
28 situation which has proven itself through experience,  
29 because of all the counsel that have preceded me here,  
30 they have been representing the shipping industry, the





1 pilots, and they all have unanimously said that we have  
2 a high quality of pilots in Canada. Is it the time,  
3 my lord, in this rapidly changing world, to change  
4 this situation and take a chance with these so-called,  
5 and rightly so, multi-million dollar ships?

6 I need not add anything further, but  
7 refer the Commission to the excellent, the excellent  
8 study which was made of the handling of these super  
9 ships in restricted waters, which was filed -- I do  
10 not know under what number, but the study of the Shell  
11 people in the use of ships in entrances of restricted  
12 waters and in navigable channels, referring to these  
13 phenomena of bunk suction, diminution of manoeuver-  
14 ability, loss of rudder effect, and also to these  
15 other phenomena that in these large ships the use of  
16 stern power is lacking to quite a degree, and that in  
17 order to keep control of the vessel one has to handle  
18 the ship at almost full speed under certain conditions.

19 I, myself, have had occasion to represent  
20 a pilot who, two years ago, was piloting the "HOMERIC"  
21 from Montreal to Quebec. He was proceeding near  
22 Varennes at a speed of about twelve knots, with stern  
23 current, of course, when suddenly he realized that she  
24 was not answering her rudder. She had a full load of  
25 passengers on board, and she is a big ship, and she  
26 took a sheer to starboard and he could not stop her.  
27 He had the presence of mind, and he was lucky that the  
28 anchor was slipped and ready to be dropped, and that  
29 his order was carried out right away. He dropped the  
30 anchor and went full astern on the starboard engine





1 and turned in that narrow channel, and the pilot told  
2 me he was for one complete week without sleeping and  
3 felt that he had aged at least ten years. Imagine if  
4 he had not been able to turn his ship in that narrow  
5 channel and if she had stranded athwartships in that  
6 channel. We would have been without a seaway, without  
7 a channel between Toronto, the American ports, the  
8 Great Lakes and Montreal. That would have meant that  
9 industrial central Canada, the northwestern central  
10 United States would have been inaccessible for a number  
11 of months, with a tremendous loss to this country in  
12 external trade.

13 My lord, since I am going to change the  
14 subject, I will ask for an adjournment at this stage.

15 HIS LORDSHIP: We will adjourn for about  
16 ten minutes.

17  
18 ---Short Recess.

19  
20 MR. LANGLOIS: I now come, my lord, to  
21 the specific recommendations as made by the St.  
22 Lawrence River District Pilots, and I need not  
23 enumerate them. As I said previously, they have been  
24 ably handled and established by my learned friend, Mr.  
25 Lalonde, and the only thing I want to add is that the  
26 Canadian Merchant Service Guild and its members give  
27 their full support to these specific recommendations  
28 which are steps in the right direction and will surely  
29 contribute to the improvement of the service, if they  
30 are implemented.







1                   There were also specific recommendations  
2 contained in the brief presented by the Canadian  
3 Merchant Service Guild, but I dealt with them as I  
4 went along so far as the districts of Sydney and the  
5 British Columbia Coast Pilotage District were concerned  
6 as regards pension funds and the coastal pilotage  
7 with regard to the district of St. John's, Newfoundland.

8                   I now wish to deal with these recommend-  
9 ations which are general in character, to Part 2 of my  
10 address, General Recommendations, the first one of  
11 which is at pages 7 and 8 of the brief, paragraphs 15 to  
12 18.

13                  Since I have had, my lord, occasion  
14 on the presentation of that brief to your Commission  
15 to make some comments in this regard, I do not  
16 wish to spend unduly my time in repeating what has  
17 already been said to note that I am not the only one  
18 to recommend that a special, separate act be enacted  
19 to cover our law on pilotage in Canada, and this  
20 recommendation was made, among others, by my learned  
21 friends, Mr. Brisset and Mr. Lalonde, to mention only  
22 these two.

23                  I think the need has arisen in  
24 Canada to revamp our legislation dealing with pilotage  
25 and to do away with this practice of piecemeal accommodation  
26 by additions or subtractions to a piece of legislation  
27 which is voluminous, which is as voluminous as the  
28 Canada Shipping Act, and which, itself, is in bad need  
29 of complete revision, modernization and clarification.  
30





1 Conditions are not what they were in 1894, when the  
2 Merchant Act of England was adopted, from which our  
3 Canada Shipping Act of 1934 was copied, and there is  
4 a limit, as I said, to doing legislation piecemeal  
5 and of adding to dispositions to meet new conditions,  
6 forgetting that in doing so we are changing the general  
7 principle underlying the legislation when it was first  
8 introduced to meet another set of conditions which no  
9 longer exist.

10 In this chapter I recommend that this  
11 new pilotage law of Canada be as complete as possible,  
12 and that it should be left to the means of legislation  
13 by Order in Council. Then, only the bare necessities  
14 to make applicable to local conditions the general  
15 principles outlined in the main legislation, because,  
16 my lord, we strongly believe in responsible government,  
17 and a responsible government means legislation by a  
18 body of men elected for the purpose by the people of  
19 the country. That means legislation passed by both  
20 houses of parliament. Our constitution is such that  
21 government by the executives is allowed only to meet  
22 the necessities of administration. Government by  
23 Order in Council, as I call the legislation -- or call  
24 it the regulations, by-laws, rules, or whatever you  
25 like -- part under the order of the Governor in Council,  
26 this way of passing legislation leads sooner or later  
27 to government also by Governor in Council, which is  
28 against the principle of responsible government as  
29 applicable to this country. I think it is more accept-  
30 able to our way of life, to our way of thinking, when





1 any legislation, whether it hurts or pleases a certain  
2 section of society or not -- there is more satisfaction  
3 for those affected by this legislation when they know  
4 it has been brought about in the open, that it has been  
5 fully debated by their elected representatives, and  
6 that it has been given due publicity. It is even more  
7 difficult after that to plead -- which is illegal in  
8 any event -- ignorance of the law. The better the law  
9 is known, the better chance it has to be observed.

10 It also has this other advantage of  
11 giving to those charged with the heavy responsibility  
12 of enacting legislation, regulations, rules and by-laws,  
13 this opportunity of giving it a second thought, and  
14 sometimes given a particular problem second thought  
15 gives you a chance to see it in a different light.  
16 Lastly, it gives those charged with the responsibility  
17 of government the opportunity to seek the advice of  
18 as many people, of as large a possible sector of the  
19 population, to have the opinion of all those concerned  
20 with the proposed legislation. This legislation which  
21 is, perhaps, for our future pilotage act is that it  
22 should provide appeals from decisions of those charged  
23 with its administration and application. This might  
24 be a recommendation which need not be made, since we  
25 now have in Canada the Canadian Bill of Rights which  
26 overrides, as we know, the provisions of other legisla-  
27 tion and which provides that no citizen of this  
28 country shall be deprived of his freedom, of his rights  
29 and properties without due process of law; that is,  
30 due recourse to our judicial system.







1 THE CHAIRMAN: In the Province of Quebec,  
2 you would have Section 50 of the Code on Civil pro-  
3 cedure.

4 MR. LANGLOIS: Yes, also, my lord.

5 This legislation should, in our mind, also  
6 include provisions setting out clearly a definite  
7 procedure or machinery to carry out enquiries into the  
8 conduct and behaviour of pilots and into marine  
9 casualties.

10 I will not deal with that at this stage  
11 because this will come, in greater detail, under  
12 another chapter of the same brief.

13 My lord, now I come to the chapter of  
14 the Canadian Merchant Service Guild on compulsory  
15 pilotage, and before I proceed with this chapter, I  
16 would like to take a few minutes of the time of this  
17 Commission to explain further the position which was  
18 taken by your humble servant, as counsel for the  
19 Canadian Merchant Service Guild, in 1961, I think it  
20 was, when appearing before the Senate Transportation  
21 Committee on the then proposed bill S-3.

22 In regard to the provisions of our  
23 present legislation as to the compulsory payment of  
24 pilotage dues in the pilotage districts of Montreal and  
25 Quebec, I then took the position that even though the  
26 Canada Shipping Act did not contain a provision giving  
27 the power to the pilotage authority to make by-laws  
28 under the Governor in Council, of course, to make the  
29 payment of pilotage dues compulsory in the Montreal  
30 and Quebec districts, because these districts are





1 created by statute and not orders-in-council, and since  
2 the present legislation only limits that power to make  
3 payments compulsory by Order-in-Council only in those  
4 districts, I then contended in support of this position  
5 the following, that under the law of interpretation,  
6 under the Interpretation Act, Section 19 of the Act, which  
7 reads as follows, and I will quote it later. There is a  
8 piece of legislation a definite provision revoking a  
9 position in the Act, but the effect of the act con-  
10 tinues even after its revocation. That is Section 19  
11 of the Interpretation Act, which reads as follows:

12 "Where any act or enactment is repealed, or  
13 where any regulation is revoked, then, unless  
14 the contrary intention appears, such repeal  
15 or revocation does not, say that in the  
16 section otherwise provide, affect the previous  
17 operation of any Act, enactment or regulation  
18 so repealed or revoked, or anything duly done  
19 or suffered thereunder..."  
20 -- and so forth.

21 There is also Section 20 of the same  
22 Interpretation Act, which reads:

23 "Whenever any Act or enactment is repealed, and  
24 other provisions are substituted by way of  
25 amendment, revision or consolidation,

26 (a) All regulations, orders and by-laws  
27 made under the repealed Act or enactment shall  
28 continue good and valid so far as they are not  
29 inconsistent with the substituted Act or enact-  
30 ment, until they are annulled and others made  
in their stead..."





1 ---and so forth.

2 Furthermore, I then  
3 referred to Section 331 (1) of the Canada Shipping Act  
4 of 1934, which is as still the same provision in the  
5 present day legislation, which reads as follows:

6 "Every valid and effectual by-law made by any  
7 pilotage authorities prior to the first day  
8 of August, 1936, shall continue to be valid  
9 and effectual until rescinded..."

10 -- and so on and so forth.

11 THE CHAIRMAN: That is not 1934.

12 MR. LANGLOIS: Yes, 1934, my lord.

13 THE CHAIRMAN: I have it here.

14 MR. LANGLOIS: That is the present Act.

15 THE CHAIRMAN: That is right.

16 While we are on this subject, you are  
17 referring to the by-law. The compulsory payment is  
18 not made by by-law.

19 MR. LANGLOIS: I am coming to that, my  
20 lord. I will establish my premises first.

21 I now refer to Sections 395 and 397 of  
22 Chapter 186 of the Revised Statutes of Canada, the  
23 Canada Shipping Act of 1927.

24 Section 395 reads as follows:

25 "The Minister shall be the pilotage authority  
26 of the pilotage district of Quebec, and all  
27 the powers vested in the Harbour Commissioners  
28 of Quebec, previously to the twentieth day of  
29 July in the year One Thousand Nine Hundred and  
30 Five, as such pilotage authority, shall continue







1 to be vested in the Minister".

2 There is another section, Section 397 of  
3 the same Act, which reads:

4 "The Minister shall be the pilotage authority  
5 of the pilotage district of Montreal, and all  
6 the powers vested in the Montreal Harbour  
7 Commissioners, previously to the twenty-  
8 fourth day of October of the year One Thousand  
9 Nine Hundred and Three, shall continue to be  
10 vested in the Minister".

11 So, my lord, it is a long time ago, but  
12 there was the power, the Harbour Commissioners had the  
13 powers to make the by-law, and when they were vested  
14 in the Minister, the Minister has the same power to  
15 make the by-law. And since, even more than that, my  
16 lord. If the Governor-in-Council had wished to amend  
17 the by-laws I am about to quote under the present day  
18 legislation, he could not, because he cannot make  
19 by-laws to provide for payment of compulsory pilotage  
20 dues in the districts created by statute. The by-law  
21 I claim is still in existence, is by-law 800 of the  
22 tenth of May, 1928, published in the Official Gazette  
23 of Canada under date of 19th May, 1928, page 3717 of  
24 the English text and page 3735 of the French text. It  
25 is signed by the then Clerk of the Privy Council, Mr.  
26 E. J. Lemaire, and I refer to Section 2, sub-section 1,  
27 under the title of "Pilotage Dues" of said by-law,  
28 which reads as follows:  
29  
30





1 "No vessel shall be...." --

2 this is for the pilotage district of Quebec, and I  
3 shall start over again the citation of sub-section (1)  
4 of section 2 of the bylaws:

5 "No vessel shall be compelled to use  
6 the services of a pilot within the pilotage  
7 district, but the payment of pilotage dues shall  
8 be compulsory except in case of ships exempted  
9 under the provisions of the Canada Shipping Act  
and amendments."  
There is also paragraph (b):

10 "Notwithstanding anything herein con-  
11 tained no ship shall be exempted on any ground  
12 whatever from liability to pay pilotage dues  
13 if such vessel voluntarily takes on board a  
14 pilot to pilot the vessel."

15 As for the District of Montreal, the  
16 corresponding Order-in-Council bears the number 1824.  
17 It is dated September 16, 1927 and is at page 842 of  
18 the official Gazette of Canada, September 24, 1927 --  
19 page 842 in the English text of the Canada Gazette  
20 of September 24, 1927, and with the French text at  
21 page 867; and it reads exactly the same, My Lord,  
22 except that the name of the district is changed,  
23 and so on.

24 So this was the line of presentation  
25 that was used at the time, and I am inclined to believe  
26 that this is a valid one. I know it is not a good  
27 way to legislate. We could call it legislation  
28 by omission, and that is surely not a clear way to do it.

29 THE CHAIRMAN: No.

30 MR. LANGLOIS: And I think it is another





1 argument in favour of having a new Act.

2 THE CHAIRMAN: That is right. We thank  
3 you very much. That is a problem that we are  
4 confronted with and which we will have to study.

5 This shows at least that there is great  
6 doubt in the whole matter and that it needs to be  
7 clarified.

8 MR. LANGLOIS: I will undertake to send  
9 you the text of the bylaw.

10 THE CHAIRMAN: We will obtain a copy of  
11 the bylaw which you quoted. We will get a copy of it.

12 We may as well give it a number now.

13 MR. NADEAU: It will be Exhibit 1448.

14 THE CHAIRMAN: Will you give us a  
15 description of it, please?

16 MR. LANGLOIS: It is bylaw No. 800 of  
17 the 10th of May 1928, Order-in-Council published in the  
18 Canada Gazette on the 19th of May 1928, at page 3717  
19 (English text) and page 3735 (French text) for the Quebec  
20 district; whilst for the Montreal district it is Order-  
21 in-Council No. 1824 of September 16, 1927, published in  
22 the Canada Gazette of September 24, 1927, appearing at  
23 page 842 (English text) and at page 867 (French text).

24 --- EXHIBIT No. 1448: Copies of bylaws re  
25 Quebec and Montreal  
26 districts, as published  
27 in the Canada Gazette of  
28 dates May 19, 1928 and  
29 September 24, 1927.

30 Now, My Lord, I come to the chapter on  
compulsory pilotage at pages 9 10 and 11 of the brief







1 of the Canadian Merchant Service Guild, paragraph 19  
2 to 25, with the various reasons in support of the  
3 recommendations as outlined and as they have already  
4 been explained at the sittings in Ottawa in the fall.  
5 I will dispense with repeating them again except to  
6 add this, that this should not prevent the majority  
7 from remembering that the payment of pilotage dues  
8 has a double-barrelled purpose, and it all depends  
9 on which aspect you consider most important; but they  
10 must be of equal importance.

11 One is, first, to provide the necessary  
12 money to pay for the service and the second one is to  
13 serve as a penalty for non-users. This is a secondary  
14 factor, to my mind, and I am not willing to accept  
15 the contention of Mr. Brisset -- although I respect  
16 his opinion to the effect that there would be the  
17 situation of having compulsory pilotage -- if the only  
18 thing that happens when one does not take a pilot he  
19 pays the dues. That is what is happening today, and  
20 for the first offender probably the payment of the  
21 pilotage dues might be sufficient; but for the second  
22 offender one and a half might make him think twice.

23 If we consider the principle, or the  
24 factor of safety, I think we should not hesitate in  
25 putting the necessary sanctions unless there are valid  
26 circumstances which prevent the master from taking a  
27 pilot -- weather conditions and things of that nature.

28 At any rate, My Lord, I have had occasion  
29 to discuss this particular problem with a correspondent  
30 in England, who is versed in this matter, and he tells





1 me that there they have had compulsory pilotage for  
2 some time and they have never had trouble in that  
3 respect; and I am interested to find in the evidence  
4 not an iota of proof to the effect that one case has  
5 arisen when a master said "Well, pilot, stick in  
6 the corner of the bridge; I don't need you; I can do  
7 without you, but I have to pay whether I take you or  
8 not."

9 I believe, just the same, that if a master  
10 said something to that effect I don't think that it  
11 would be evidence of a great deal of intelligence on  
12 his part, because if he has the advice of an expert  
13 available under the Act I would think there are more  
14 brains in two heads than in one, and if one has the  
15 advice of an expert available one should take it.

16 THE CHAIRMAN: So you say that it is  
17 a compulsory system in England now -- compulsory  
18 pilotage?

19 MR. LANGLOIS: Well, My Lord, they have  
20 some exceptions, of course...

21 THE CHAIRMAN: Yes, of course; and that  
22 is what you are advocating here. This would not apply  
23 everywhere?

24 MR. LANGLOIS: ...and this is stated in  
25 the brief, that they have got around to this in England.

26 Now, My Lord, did you ask me a question...?

27 THE CHAIRMAN: Well, I stated that it  
28 would not be applicable here in Canada everywhere.  
29 For instance, in the case of Prince Edward Island I don't  
30 suppose that you would say that we should have a





1 compulsory system there.

2 MR. LANGLOIS: Well, the reasoning behind  
3 this recommendation is that if pilotage is thought to  
4 be a matter of safety it would be compulsory.

5 THE CHAIRMAN: That is the criterion?

6 MR. LANGLOIS: If the premise does not  
7 exist then the recommendation does not apply.

8 THE CHAIRMAN: So it would be likely that  
9 the service would be either free or that there would  
10 be some kind of compulsion in the system...

11 MR. LANGLOIS: You will remember I gave  
12 the example of the traffic lights. If I come to a  
13 traffic light and it is green I cross. If I go when  
14 the light is red, or if I do not wait until it makes  
15 the change, there would be no use in having a traffic  
16 light. If the traffic light is there then everybody  
17 should obey it and I should not be allowed to get  
18 away with it without paying a fine of some kind.

19 In England in 1918 the law was amended to  
20 do away with this so-called definition of compulsory  
21 pilotage. This is mentioned in paragraph 21, where  
22 the amendment to the Pilotage Act of 1913 is quoted,  
23 which came into force in 1918 in the United Kingdom.

24 Now, My Lord, I come to the chapter  
25 entitled "Pilotage Dues" at pages 16, 17 and 18 of  
26 the Guild's brief. Again, since I have explained  
27 both at the sittings at Ottawa in the fall and actually  
28 in this address earlier the principle underlying this  
29 recommendation I do not think I need elaborate unless  
30 Your Lordship and your co-commissioners wish to have







1 further clarification.

2 We are merely recommending that a formula  
3 be sought by which an easier way of computing pilotage  
4 dues based on the physical dimensions of the ship  
5 could be found so as to eliminate the present use of  
6 different tonnages, the usage of ships as shelter deck  
7 ships, when it is advantageous to do so; and finally  
8 because these physical dimensions of the ship such as  
9 the length and breadth are more easily ascertainable,  
10 and the chances of being taken for a ride, so to speak,  
11 are that much less.

12 However, in districts where this is a  
13 factor -- and a very important one -- the distance  
14 should also be taken into account; and I make this  
15 further reservation, which was made in regard to the  
16 pilots in the district of Saint John, New Brunswick,  
17 where it was recommended that the present tonnage and  
18 draft basis be retained due to the special circumstances  
19 obtaining at that port.

20 COMMISSIONER SMITH: Excuse me, Mr.  
21 Langlois, but before you pass from the different  
22 formula of assessing dues, Captain Crooks submitted  
23 a formula at one of our meetings in Ottawa, I think,  
24 or in Halifax...

25 MR. LANGLOIS: It was in June, in Ottawa.

26 COMMISSIONER SMITH: Yes. I am going  
27 to ask you a question and I know the answer before I  
28 ask it, but I will ask it, nevertheless:  
29 How does this type of assessment of pilotage appeal to  
30 you?





1 MR. LANGLOIS: I must confess, My Lord,  
2 that I have studied this formula and have given it  
3 consideration. It looks a good departure to me  
4 because it seems to have a good basis. But the only  
5 thing I lack knowledge of is to say that there would  
6 not be a way of getting a better basis for the units  
7 mentioned therein.

8 But I should say that it seems to be a  
9 good basic principle -- a good basic formula -- which  
10 is lacking in other formulae...

11 COMMISSIONER SMITH: Just briefly, he  
12 says, or he recommends, that the following measurements  
13 be used: The length overall multiplied by the breadth,  
14 divided by 50 gives the number of units, and the charges  
15 are so much per unit. There is a whole lot more to it  
16 than that, but that is the basic starting point.  
17 Then, by a different calculation he arrives at a unit  
18 price which could be applied as a formula to the ship,  
19 and so arranged that it could be varied to meet the  
20 tariff charges -- the impost -- at the ports, which are  
21 different at each port.

22 MR. LANGLOIS: Yes. As I said, no  
23 doubt this is taking it in the right direction, but I  
24 won't voice a definite opinion in that respect; and  
25 I have no doubt that the Commission will seek expert  
26 advice in that direction and will find the solution.

27 I now come to "Pilotage by Ship Officers"  
28 at pages 19, 20 and 21 of the brief; and, again, this  
29 is a chapter which I have already discussed and I will  
30 content myself by mentioning merely the underlying





1 principle of this recommendation.

2           There is no doubt in my mind, and the  
3 evidence is to this effect, that ships are getting  
4 bigger; they are built to go at greater speeds; they  
5 have modern equipment -- cargo-handling equipment.  
6 One has only to think of the self-loading ships with  
7 the conveyer belt system, or the type of ship like the  
8 one which has been built and never used but is to be  
9 used soon for trade in Montreal and Newfoundland,  
10 which is a self loader with side doors, where the  
11 trucks are driven into the ship and as the ship takes  
12 on her cargo, with this self-loading system, the same  
13 quantity in weight of water is pumped out so that the  
14 ship always remains at a constant level with the  
15 wharf; and the reverse process takes place when the  
16 trucks are driven off the ship; the ship takes in  
17 automatically an equal quantity of weight of water so  
18 that the ship will remain level.

19           The FORT ST. LOUIS was the first ship to  
20 be built, but due to objections from stevedores in  
21 Newfoundland she has been put out of commission.  
22 But there is another one of the same type that they are  
23 building at present.

24           With these modern ships we have also to  
25 take into account modern facilities at shore terminals.  
26 We have, also, this modern way of carrying general  
27 cargo in containers where they will be collapsible --  
28 of the collapsible type -- so that they will fold up  
29 and take less space, and there are those which are of  
30 the rigid type.       Such containers today are being used







1 on the ocean trade. The CPR is using them, and they  
2 are in the North Atlantic run into Quebec and Montreal  
3 and other northern ports.

4 So with all these improvements, this ever-  
5 increasing automation, the ships are spending more and  
6 more time at sea and less and less time in harbour,  
7 and the masters and the chief officers of these ships  
8 have quite a problem of administration on their hands.





1 administration of the ships because they are larger  
2 ships, carry a larger crew, there is more paper work  
3 to be done for getting the necessary supplies and  
4 bunkering for the ships, the cargo, so for the few  
5 hours the ship stands in port, it does not mean hours  
6 of rest for these responsible officers, but it means  
7 when the ship is ready to go, they are more tired.

8               There is one fact we must not lose sight  
9 of, and it is in evidence too that ship owners for  
10 economic reasons, are taking advantage of the week-ends.  
11 They are trying not to spend the week-ends with their  
12 ships silent in port, so the ships' officers have no  
13 way of resting the way we laymen, living on shore, are  
14 able to take rest over the week-end so we will be  
15 fresh and alert to start work again on Monday morning.  
16 Every Friday night at Montreal, on every week-end, you  
17 see ships going down and coming up, ready to unload  
18 on Monday morning. Therefore, the factor of human  
19 endurance comes into play, and these officers, as a  
20 matter of fact, cannot be counted on to be in the  
21 physical condition to handle these large ships in  
22 restricted waters, travelling at great speed and  
23 meeting heavy traffic.

24               There was evidence adduced before this  
25 Commission to the effect that when these ships even  
26 go through busy harbours like Three Rivers, which is  
27 becoming a busy harbour with three ferries running  
28 across the river between the two shores, the captain  
29 does not even get up to attend to the change of  
30 pilots at Printe des Ornes. This is a pilotage station





1 west of Three Rivers. Also, the same thing happens  
2 in Quebec, when the ship goes through the busy harbour  
3 of Quebec, where, again, we have ferries crossing from  
4 one shore to the other and ships coming in and out of  
5 the harbour, and we have two big currents at both ends,  
6 one at the west and one at the east end of the harbour  
7 where the channel branches off on both sides of the  
8 island of Orlean.

9 I remember -- and I think this is in  
10 evidence also, that when the formal enquiry took place  
11 into the circumstances of the collision between the  
12 "TRITONICA" and the "ROONAGH HEAD" the master stated --  
13 and this evidence forms part of the record of this  
14 Commission -- that he had taken the ship out of the  
15 Harbour of Ste. Pierre to Sorel. Ste. Pierre is a  
16 tricky enough place. It is an inshore channel between  
17 the islands, and he had been on duty till he reached  
18 the station and he was very glad to go and have a rest  
19 when the pilot came aboard. He is only a human being,  
20 like we are, and there is a limit to his physical  
21 endurance. For this reason, my lord, we recommend  
22 that pilotage by ships' officers should be discontinued,  
23 and the arguments I have just advanced will also serve  
24 in rebuttal of what has been said by my learned  
25 friends, Mr. Mahoney and Mr. Brisset in this connection.

26 Now, I come to Chapter 8 of the local  
27 port authorities" are dealing with the suggestion  
28 made by the management of the Harbour of Montreal in  
29 regard to their becoming the pilotage authority in  
30 that area, which suggestion was somewhat altered later







1 on, but it came back to the surface the other day  
2 when my learned friend, Mr. Brisset, suggested that  
3 in Montreal the National Harbours Board management  
4 should be the pilotage authority, and suggested also  
5 that the Seaway Authorities should be the pilotage  
6 authorities for the Seaway as far as and including  
7 the Welland Canal.

8 My lord, I do not think I need add to  
9 the reasons that are outlined in Paragraphs 48 to  
10 52 against this proposal. Since I will at least have  
11 to make a reference to that when I deal with the  
12 general administration in the operation of pilotage,  
13 in commenting further on the suggestions made by Mr.  
14 Brisset for both the central or general board on  
15 pilotage that he has recommended and the local boards,  
16 I will leave it at that for the moment.

17 I now come to the chapter entitled,  
18 "Detention, cancellation and movage charges", pages  
19 27 and 28, where we advocate that the payment of  
20 detention, cancellation and movage charges should be  
21 standardized throughout Canada, in all fairness to  
22 pilots and users of their services as well.

23 The reason behind this is, first, in  
24 most districts, these charges are too low and bear no  
25 relation whatever to factors of penalty to the ship  
26 concerned and to the remuneration of the pilots  
27 involved in rendering the service.

28 An example of that, the British Columbia  
29 Coast Pilotage districts, but we were pleased to  
30 inform your Commission that the situation has been





1 remedied in the summer months through agreement reached  
2 between the pilots and the shipping industry.

3 Finally, in this same chapter, the  
4 Canadian Merchant Service Guild gives their support to  
5 the recommendation made by the St. Lawrence River  
6 pilots, recommendation 26, regarding detention charges  
7 because of the stress of water or ice conditions in  
8 the St. Lawrence between December 1st and April 8th,  
9 for the reasons outlined in their brief, which I need  
10 not repeat here.

11 Now, my lord, I come to the chapter  
12 bearing the title, "Aids to Navigation", in which, as  
13 your lordship will find at pages 33 and 34, we suggest  
14 that any alterations or modifications to aids to  
15 navigation should be discussed with the pilots, and  
16 that the offices of the marine agents of the St.  
17 Lawrence Ship Channel Division should be within reach  
18 during week-ends and local holidays, so as to enable  
19 both pilots, masters and officers of ships to pass on  
20 information advising of failures of such aids to  
21 navigation, and also so that these branches of the  
22 federal administration, the local marine agents of  
23 the St. Lawrence Authority or the St. Lawrence Ship  
24 Channel Division, be in a position to communicate  
25 this information to those at sea over local holidays  
26 and week-ends so that these should receive proper  
27 promulgation over radio-telephones to all those con-  
28 cerned.

29 A substantial example has been given  
30 with regard to the range lights from Quebec to Montreal,





1 when without previous discussion or to the knowledge of  
2 the pilot alterations were made, with the result that  
3 the beam or the arc of visibility of these lights has  
4 been reduced in such a way that these range lights  
5 have now almost to be in line to be seen. The pilot  
6 who was looking for his range lights in negotiating  
7 a curve, not seeing them or only one of them, could  
8 have been under the impression they were out of order,  
9 and this could have caused an accident. The fact of  
10 reducing this arc of visibility prevents the pilot  
11 or navigator from seeing, as he is about to enter a  
12 curve, that he is getting within these range lights  
13 and they are beginning to close and it is safe for  
14 him to start keeping to his starboard hand side of  
15 the channel so that he will keep away, as much as  
16 possible, from any on-coming traffic he could meet  
17 while negotiating such a curve.

18 I must admit, my lord, it was only the  
19 other day, when I attended a conference between the  
20 masters of the icebreakers operating on the St.  
21 Lawrence and the ship owners operating ships in that  
22 area during the winter months, that I knew what had  
23 been done in connection with these range lights. The  
24 arc of visibility has been reduced for a useful  
25 purpose. The arc of visibility of these range lights  
26 has been reduced because shades have been installed  
27 over the lights and on the sides for the winter months  
28 so that freezing rain or melting snow will not obscure  
29 the lights in cold weather. That is the reason. I  
30 did not know until this conference, and when we had







1 this discussion I brought the subject up myself, and  
2 was told what had been done, but the pilots had not  
3 been advised.

4 Now this objection from the pilots has  
5 been received, the decision has been taken to remedy  
6 the situation to quite an extent, without defeating  
7 the purpose of the shades by tucking the side and  
8 keeping the tuck as it was so that the lights will be  
9 seen at an angle.

10 This is another example which showed  
11 that a bit of consultation and of advice-seeking does  
12 some good sometimes, even when experts are dealing  
13 with matters with which they are very conversant and  
14 with which they have to deal in their every day  
15 occupation.

16 Now I come to the chapter entitled,  
17 "Telycommunications". The chapter is at pages 35  
18 and 36, and recommends that the situation obtaining  
19 in particular in the St. Lawrence River -- but it is  
20 not limited to the St. Lawrence River below Quebec --  
21 be remedied and that steps be taken so that  
22 operation of radio-telephone communication be available  
23 at all times. Your Commission has, no doubt, heard  
24 of these satellite stations that have been installed.  
25 One, in fact, is in the vicinity of Bellechase Island.  
26 According to the reports I have received, and with my  
27 own experience with the radio-telephone on my own  
28 yacht, the improvement, if any, is not too noticeable.  
29 In this respect, my lord, I take the liberty of  
30 referring your lordship to the evidence adduced before





1 the Commission into the collision between the  
2 "APPOLONIA" and the "LEECLIFFE HALL," where there  
3 is evidence that communications on the night in  
4 question could have improved the situation probably,  
5 in all likelihood, it is true, to the extent of making  
6 available very shortly after the collision a modern  
7 salvage vessel which was not too far from the scene of  
8 the accident. This vessel reported itself, but  
9 apparently, due to the poor radio-telephone conditions,  
10 his message was misunderstood. She was a very modern  
11 U.S. Navy salvage ship, and the master of the DESOTA  
12 thought she had identified herself as a schooner.  
13 It was the DESOTA COUNTY, and he understood, through  
14 interference, it was the "CHARLEBOIS COUNTY". There  
15 is a schooner with a name similar to that on the  
16 river. But, I say, that evening probably if the  
17 station in Quebec or Mount Jolie, or any other shore  
18 station could have picked up that message and  
19 passed the correct information and communicated with the  
20 "LEECLIFFE HALL" the detail which was necessary, it  
21 probably would have made the captain change his mind  
22 in asking for the services of this ship instead of  
23 turning away and saying, "I don't need you. I have  
24 other ships standing by".

25 There is evidence by Captain Rousseau  
26 that night, who was piloted of a vessel not far  
27 from the accident, that he tried himself to relay  
28 to Quebec some radio message he was getting from the  
29 ships in distress, but it was impossible for him to  
30 get hold of V.C.C. QUEBEC. So, it is a very important





1 matter, and I am sure that any suggestion or recommenda-  
2 tion from your Commission would help remedy this  
3 situation.

4                   The Canadian Merchant Service Guild  
5 also recommends that all ships plying the pilotage  
6 waters of Canada should be equipped with adequate  
7 M. F. and V. H. F. radio-telephone sets; and also  
8 that pilots be supplied with light-weight portable  
9 two-way radio sets for speedy and dependable  
10 communications between pilots rendering pilotage  
11 services on separate vessels, or between two pilots  
12 on board the same vessel when two pilots are required  
13 for difficult manoeuvres in particularly restricted  
14 waters with certain type of vessels in certain harbours.  
15 For example, for certain sections of the Harbour of  
16 Vancouver, where you have a pilot aft and one on  
17 the bridge who wish to communicate between one another,  
18 or between a pilot and the master of any tug assist-  
19 ing in the movement of his vessel, and/or between  
20 the pilots in charge of a tug and her tow.

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1                   Yesterday I quoted a letter from a pilot  
2 in the Vancouver harbour, which illustrates this point,  
3 and I do not think I need to repeat what was said in  
4 this letter, but merely refer the Commission to its  
5 contents.

6                   I now come, My Lord, to the chapter on  
7 "Under Keel Clearance" at pages 37 and 38 of the brief  
8 of the Canadian Merchant Service Guild.

9                   THE CHAIRMAN:   Are you going to be long on  
10 this subject?

11                  MR. LANGLOIS:   Not very long on this one,  
12 My Lord.

13                  The Canadian Merchant Service Guild again  
14 recommends -- because it has done so in the past through  
15 its National Pilots Committee -- that minimum under  
16 keel clearance in particularly narrow and restricted  
17 waters should be promulgated.

18                  Mr. Brisset stated the other day that this  
19 was not a matter of pilotage.   It is very much a  
20 matter of pilotage.   If this is not so why have we  
21 heard of computing devices and why are we wasting our  
22 time in talking about radio telephone and aids to  
23 navigation?   It is all connected to pilotage, to the  
24 safety of navigation and very much necessary in this  
25 modern shipping world where ships are getting bigger  
26 but channels are not getting any bigger; they remain  
27 the same, with a few exceptions, to what they were  
28 before.

29                  I think this is a matter of importance,  
30





1 and if this were promulgated, taking into account the  
2 phenomena that I have mentioned this morning and which  
3 are mentioned in paragraph 77 of the brief, of the  
4 effect of larger vessels maneuvering in narrow and  
5 restricted channels, I am sure that a great service  
6 would be rendered to both shipping and to the pilotage  
7 world in the implementation of such a recommendation.

8 THE CHAIRMAN: This, of course, wouldn't  
9 apply to tidal waters?

10 MR. LANGLOIS: No, it would not; except,  
11 for example, in Courtenay Bay where you have to take  
12 ships in...

13 THE CHAIRMAN: That is not under keel  
14 clearance. It might be like New Westminster; but  
15 some kind of new rules and regulations of not more than  
16 24 feet, or 28½ feet, or something like that.

17 MR. LANGLOIS: This, My Lord, is not, to  
18 my mind, imposing a burden on the shipping industry.  
19 It is for the protection of their own ships; and knowing  
20 the heavy cost of replacement of these ships today I  
21 think they should realize that, and I am sure they do,  
22 because they haven't taken any issue with it except  
23 to say that it might not be a matter for the pilots to  
24 consider. They are taking issue with that, but I think  
25 they should welcome such a suggestion.

26 Now, where these clearances are established  
27 they should be widely published so that pilots, owners  
28 and agents will know about them and not run undue risks.

29 My Lord, this concludes this chapter, and  
30 it might be...





1 THE CHAIRMAN: I don't suppose you can  
2 finish within about fifteen minutes?

3 MR. LANGLOIS: No, My Lord. I am afraid  
4 that my address is taking longer than I had thought...

5 THE CHAIRMAN: That is quite all right.  
6 We are here for that. We wish to give everyone every  
7 opportunity, and everything you say will be of help  
8 to us when we study this later; so nobody has to be  
9 pressed for time. Everybody has had the opportunity,  
10 and we wish you also to have your opportunity to  
11 complete your pleadings. So we will be here tomorrow  
12 morning at ten o'clock.

13 MR. LANGLOIS: Thank you, My Lord.

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19 --- Adjournment  
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# ROYAL COMMISSION

ON

## PILOTAGE

HEARINGS

HELD AT

OTTAWA

VOLUME No.:

164

DATE:

JAN 15 1965

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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held  
within the Supreme Court Build-  
ing, Wellington Street, Ottawa,  
Ontario, on Friday, the 15th day  
of January, 1965.

THE COMMISSION:

The Honourable Mr. Justice Bernier	-- Chairman
Mr. Robert K. Smith	-- Member
Mr. Harold A. Renwick	-- Member
Mr. Gilbert Nadeau	-- Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	-- for the Shipping Feder- ation of Canada
Mr. Marc Lalonde	-- for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of the Montreal Harbour Pilots; Corporation of the Mid- St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. R. Langlois	-- for the Canadian Merchant Service Guild
Mr. R. Macgillivray	-- for the Department of Transport
Mr. J.J. Mahoney	-- for the Dominion Marine Association





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II

INDEX OF SUBMISSIONS

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Continuation of Argument as presented by  
Mr. Langlois

21,690

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Ottawa,  
Friday, January 15, 1965

--- On resuming at 10.00 a.m.

MR. LANGLOIS: My Lord, at the adjournment yesterday afternoon I had reached the part of the brief to the Royal Commission by the Canadian Merchant Service Guild dealing with the disciplinary measures and shipping casualties. This chapter of the Guild's brief is to be found at pages 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48 of the brief.

In this Chapter the Commission is reminded that under section 329 paragraph (f) of the Canada Shipping Act every pilotage authority, by bylaw confirmed by the Governor-in-Council, may make regulations for the government of pilots and for ensuring their good conduct and constant attendance to and effectual performance of their duty, both on board ship and on shore, and for the holding of enquiries into any matters dealt with in Part VI of the Act.

Also, paragraph (g) of the same section empowers the pilotage authority to make, in the same manner -- that is, by order confirmed by the Governor-in-Council -- rules for the punishment of pilots for any breach of regulations made pursuant to the said section, and the punishment foreseen could be by penalty or by the withdrawal or suspension of the pilot's licence.





1 As Your Lordship surely knows, a study  
2 of the bylaws presently in force in Canadian pilotage  
3 districts across the board from coast to coast shows  
4 that no regulations have ever been made for the holding  
5 of enquiries into any such matters.

6 THE CHAIRMAN: I don't know whether  
7 they have ever been made, but I haven't found any in  
8 existence in any of the bylaws that I have had occasion  
9 to study.

10 MR. LANGLOIS: My search in the same  
11 direction has been in vain, also, My Lord.

12 To my mind the result is that we are  
13 faced today with the situation that punishments for  
14 alleged breaches of the bylaws have been, and are,  
15 handed out in a haphazard manner and with complete  
16 disregard for our well-established principles of  
17 justice, our law on evidence and the paramount  
18 principle of the Canadian Bill of Rights, to which I  
19 referred yesterday, under which no citizen of this  
20 country should be deprived of his freedom, of his  
21 rights, of his properties, without due process of law.

22 I need not add, My Lord, that no appeal  
23 is provided against any action of the pilotage  
24 authority with respect to the withdrawal or suspension  
25 of licence or other penalty which may be imposed on  
26 the pilots.

27 Under the provisions of Part VII of the  
28 Canada Shipping Act, the Minister of Transport --  
29 and here I am dealing with the Minister of Transport  
30 as the Minister of Transport and not as the pilotage





1 authority -- and this is an important distinction  
2 to be made -- is given the power to order investigations  
3 and inquiries into events occurring on board or to  
4 any ship and as to the competency and conduct of  
5 officers.

6 The first section of this Part VII of the  
7 Act, which is section 552, gives the Minister of  
8 Transport the power to order an investigation to be  
9 made by any person or persons into the cause of any  
10 accident on any ship, whether attended with loss of  
11 life or not.

12 To my mind -- and this is an interpretation  
13 which is valid, I think -- the purpose of this section  
14 is limited to accident on any ship.

15 The next section which deals with  
16 investigation is section 554 of the Act which is  
17 limited to cases of ships in distress off the coasts  
18 of Canada. To my mind, neither of these sections,  
19 consequently, has a direct bearing on the matter under  
20 consideration in this chapter.

21 Now we come to sections 555 to 578  
22 inclusive, dealing with the power of the Minister of  
23 Transport -- and again as Minister of Transport and  
24 not as pilotage authority -- to order preliminary  
25 enquiries and/or formal investigations into shipping  
26 casualties as defined -- and here again I draw the  
27 attention of the Commission to the limitation --  
28 as defined by section 551 which I have already quoted.

29 These sections outline, among other things,  
30 the powers of the persons charged with the conduct







1 of such enquiries and investigations and authorize  
2 the Governor-in-Council to make rules for the carrying  
3 into effect of the enactments relating to preliminary  
4 enquiries and formal investigations and to the re-  
5 hearing of or appeal from any formal investigation.

6 I need not refer this Royal Commission  
7 to the Shipping Casualties Appeal Rules, P.C. 1954-1860,  
8 and the Shipping Casualties Rules, P.C. 1954-1861,  
9 made under the provisions of section 578; but I wish  
10 here to draw to the attention of the Commission that  
11 under section 557 the duty of the person charged with  
12 the conduct of a preliminary enquiry is limited --  
13 and I wish to underline that word -- is limited to  
14 sending to the Minister of Transport, as such, a  
15 report containing a full statement of the case, and  
16 of his opinion thereon, accompanied by any report of  
17 or extracts from the evidence or other observations  
18 as he thinks fit.

19 Nowhere is there to be found in Part VII,  
20 or in any other part of the Act, any power given to  
21 the Minister of Transport, as such, to hand out any  
22 punishment following the holding of a preliminary  
23 enquiry.

24 Now, I wish to remind this Commission  
25 that under sub-section (2) of section 555 the officer  
26 charged with the holding of a preliminary enquiry is  
27 empowered to suspend a pilot for a term not exceeding  
28 three days, unless the Minister informs such pilot  
29 within that period that a formal investigation will  
30 be held, and this power of suspension is limited --





1 and again I want to underline this -- is limited to  
2 cases where in the opinion of such officer the accident  
3 has been caused by the wrongful act -- and this I wish  
4 to underline -- the wrongful act, or the fault or  
5 by the incapacity of the pilot, or that such pilot has  
6 been guilty of any gross act of misconduct or  
7 drunkenness.

8 There again, "gross act of misconduct  
9 or drunkenness" must be underlined and borne in mind.

10 COMMISSIONER SMITH: Mr. Langlois, do  
11 you mind if I interrupt you here?

12 MR. LANGLOIS: No, Mr. Smith.

13 COMMISSIONER SMITH: Was this procedure  
14 followed in the recent case of the Leechcliffe Hall?

15 MR. LANGLOIS: Yes. Do you mean was  
16 there a formal investigation?

17 COMMISSIONER SMITH: Yes.

18 MR. LANGLOIS: There was a formal  
19 investigation ordered by the Minister as such before  
20 the District Judge in Admiralty, Mr. Justice A.I. Smith.

21 THE CHAIRMAN: It just happened that he  
22 was chosen. He wasn't chosen as such.

23 MR. LANGLOIS: No; in fact, the judge  
24 who had been chosen, Mr. Justice Pelletier, took ill,  
25 and Mr. Justice Smith was asked to replace him.

26 THE CHAIRMAN: I just point this out  
27 to show that it was not in his capacity in the  
28 Admiralty Court that he was sitting there.

29 MR. LANGLOIS: There is no necessity to  
30 even appoint a judge to hold a formal investigation;





1 an officer of the Department could be appointed.

2 COMMISSIONER SMITH: I have just one  
3 other question in connection with the LEECLIFFE HALL:  
4 Were any of the preliminary investigations and  
5 enquiries bypassed to get to the formal investigation?

6 MR. LANGLOIS: My Lord, I will deal with  
7 this case a bit later because it might be the subject  
8 of further court proceedings which result in the  
9 issuance of a brief of certiorari to cancel the  
10 suspension of one of the pilots involved, and I will  
11 be dealing with that later, if you don't mind.

12 As I said before, I am intending to file  
13 a copy of the application or petition for the brief  
14 and the judgment rendered by the chief justice of  
15 the Superior Court of Quebec in this case.

16 I had drawn the attention of the Commission  
17 to the limitations on the power given to the officer  
18 holding the preliminary enquiry, and as the brief  
19 states, we submit -- without putting the blame on  
20 anybody, because there were not set rules made out,  
21 there was no machinery established, and we cannot  
22 blame a man for not following a direction when the  
23 direction is not indicated, and it should have been  
24 indicated by the authorities -- there has been, due  
25 to this factor -- this lack of proper directions, or  
26 directives, to investigation officers by the authority --  
27 considerable abuse in the past, to my mind, of this  
28 power of suspension by officers investigating under  
29 sub-section (2) of section 555 of the Canada Shipping  
30 Act.







1 In cases, even although evidence clearly  
2 established that the accident was solely due to errors  
3 of navigation, or errors of judgment, or errors in  
4 appreciation of distances, with no fault, pilots have been  
5 suspended, and I think they should not have been  
6 suspended according to the present legislation because  
7 of the limitations contained in sub-section(2) of  
8 section 555 of the Act.

9 In some instances, My Lord, even pilots  
10 with clean, good records of service, covering long  
11 periods of years and many many years of good service  
12 have been suspended in that way, even although, in some  
13 cases at least, the Minister had not even notified  
14 them at the time of his intention to hold a formal  
15 investigation, with the result that pilots have thus  
16 suffered grave prejudices and pecuniary loss as a  
17 result of this flagrant abuse of power and complete  
18 disregard for the law of the land.

19 I wish here, My Lord, to point out --  
20 this is not in the brief -- that not only the man  
21 charged with the so-called offence is being punished in  
22 this way but all his confreres in the district, because  
23 if the district is deprived of the services of this  
24 pilot the others have to work harder to make good for  
25 him. And, even more than that, through their  
26 benevolent fund, such as in the case of Quebec, they  
27 pay 50% of the earnings lost by this pilot. So not  
28 only the pilot loses money in the accident, but all  
29 of his confreres of the district, even although they  
30





1 have committed no fault whatsoever.

2 THE CHAIRMAN: I am wondering whether  
3 this is not a left-over from the previous time when  
4 the pilots were free enterprisers with a monopoly that  
5 was given by the franchise they were given, but they  
6 were competing against everyone, and where the illness  
7 of the one was to the benefit of the others.

8 MR. LANGLOIS: Yes.

9 THE CHAIRMAN: This is not true any more.

10 MR. LANGLOIS: Quite so, My Lord.

11 Lastly, on the same line of argument,  
12 section 579 of the Canada Shipping Act empowers the  
13 Minister of Transport, as such, again -- not as  
14 pilotage authority -- to order enquiries as to the  
15 competency and conduct of any master, mate, or engineer;  
16 and, couples with that section -- both should be read  
17 together -- there is sub-section (5) which gives  
18 the Minister of Transport, upon such enquiry, the  
19 power to suspend or cancel the certificate of competency  
20 or service of any such master or mate, or the certificate  
21 of any such engineer.

22 Then, in relation to that section there  
23 is sub-section (2) of section 568 of the Act which  
24 reads as follows, and I quote:

25 "The provisions of this Part relating  
26 to the manner in which such certificates  
27 shall be dealt with shall, so far as they  
28 are applicable, extend to pilots' licences,  
29 which are subject to cancellation or  
30 suspension in the same manner as the





1 certificate of a master, mate or engineer,  
2 is subject to cancellation or suspension  
3 under this Part."

4 So this sub-section (2) makes this section applicable  
5 to the licences of pilots, and it is to be recorded  
6 here -- and this is very important -- that there is  
7 no appeal from any decision by the Minister of Transport  
8 following the holding of an inquiry under section 579;  
9 and that, therefore, it would seem that the pilotage  
10 authority has shown in the past -- and, I should say,  
11 it would seem rather, as a result of my experience  
12 dealing with so many of these cases -- that the  
13 pilotage authority, as such, in the past has shown a  
14 marked preference for holding enquiries when pilots  
15 were involved under section 579 instead of under  
16 section 558 for this reason alone, that there was no  
17 appeal in the case of a pilot.

18 And it must be noted, My Lord, that under  
19 section 142, when a ship's master, or officer, or  
20 engineer is tried under the same provision there is  
21 at least the right of review given to the Minister  
22 under section 142 which reads as follows:

23 "The Minister may, if he thinks  
24 that the justice of the case requires it,  
25 re-issue and return the Canadian certificate  
26 of a master, mate or engineer which has been  
27 cancelled or suspended pursuant to any  
28 power in this Act contained or shorten  
29 the time for which it is suspended, or  
30







1 grant in place thereof a certificate of  
2 the same or any lower grade."

3 But this does not apply to a pilot. The Minister has  
4 no power whatsoever to review his decision, to review  
5 his sentence, to shorten the suspension, in the case  
6 of a pilot, as he can in the case of a master, officer,  
7 or engineer.

8 If I may I would refer to one case, H  
9 Lord, and perhaps your counsel could refer to the file  
10 of the Department -- I don't know if this file is part  
11 of the record -- but it is the case of the JOHN E. MISHNER  
12 when she grounded some years ago on the Lark Reef in  
13 the Saugenay River.

14 I represented the pilot in that case  
15 he was suspended for six months, while the master was  
16 suspended for a year, or a year and a half, I believe --  
17 I stand to be corrected on that, because I am going  
18 memory exclusively. An appeal was made. My learned  
19 friend, Mr. Paterson, was acting with Mr. Gerety  
20 Toronto as counsel for the Minister, and both they and  
21 myself thought that the punishment was too severe in  
22 both instances, for both men involved, and Mr. Paterson  
23 and I came up to Ottawa to apply to the pilotage  
24 authority to review the sentence. We were told that  
25 in the case of the master the Minister could do it  
26 but that in the case of the pilot he could not; and  
27 the sentence was, in fact, shortened in the case of the  
28 master but not in the case of the pilot. I think  
29 the file should indicate that. I should add that in  
30





1 that case my representations were not made to the  
2 Minister directly but were made at that time to Mr.  
3 Rootes who was assistant Deputy Minister at that time;  
4 and Mr. Paterson and I saw him in this regard.

5           Moreover, My Lord, the evidence which has  
6 been adduced before this Royal Commission shows, to my  
7 mind, that enquiries and/or investigations into the  
8 conduct, behaviour and government of pilots and into  
9 accidents or casualties involving them have been  
10 conducted indifferently -- in an indifferent manner,  
11 to say the least -- and with complete disregard to either  
12 of the above two sections of the Act which I have just  
13 quoted.

14           In some instances pilots were not even  
15 informed under which section of the Act or of the bylaws  
16 made thereunder enquiries or investigations were being  
17 carried out.     The investigating officers of the  
18 Department of Transport had no instructions or rules  
19 of procedure by which to guide themselves in carrying  
20 out their duties, and that is why I say that the blame  
21 is not to be placed on them.     They were working  
22 without tools because they had no tools to work with.

23           THE CHAIRMAN:     As a rule is there a  
24 written mandate given to the investigating officer telling  
25 him under which article or section of the Act he is  
26 acting, as the convening order is dealt with in the Navy?  
27 Does the person charged with carrying out the investigation  
28 have a written mandate?

29           MR. LANGLOIS:     No.     In some cases, as I  
30 said, I think it was established that the evidence which





1 had been gathered by the investigating officer in  
2 the so-called fact finding investigation -- done in  
3 the absence of the pilot -- was used as evidence in  
4 preliminary enquiries. That was more than merely  
5 hearsay evidence. The investigating officer was  
6 reporting to the man charged with the conduct of the  
7 investigation his own interpretation of the statement  
8 had had received from the master of the ship.

9 On this point I would like to refer to  
10 the case of the S/S BEACHMORE, which is referred to in  
11 paragraph 89 of the brief at page 46, where Captain  
12 Gendron, who had carried out the investigation --  
13 the fact-finding investigation -- on board the vessel  
14 was called as a witness in the case; and that is one of  
15 the cases where the pilot had to travel to Toronto from  
16 Three Rivers to testify before an enquiry being held  
17 in Toronto, and where he had to go at his own expense to  
18 Toronto; and at that hearing Captain Gendron was  
19 allowed to give in evidence what he remembered the  
20 Captain had told him on the fact-finding investigation  
21 about the circumstances of the accident. That is why  
22 I say it is not even hearsay.

23 It was purely an interpretation of what  
24 the Captain had taken because no written statement  
25 had been taken and signed by the Captain.

26 It would have been easy, I think, -- and  
27 at this stage I want to deal with the point made by Mr.  
28 Brisset the other day, that due to hasty departure,  
29 or the necessity for ships having to move rapidly, it  
30 is impossible sometimes to obtain evidence -- in this







1 case it would have been just as easy, when the  
2 investigating officer boarded the ship in Montreal, to  
3 obtain a written statement from the captain and at least  
4 obtain an affidavit from him.

5 Of course, the pilot would not have been  
6 represented, but he could, if we had been advised, been  
7 represented at the formal inquiry, and if they intended  
8 to use that as evidence later on against him we could  
9 have been there; but he didn't even take the preliminary  
10 precaution of getting a written statement from the  
11 master and getting him to swear to the facts related  
12 to him.

13 Your Lordship will have to agree with me,  
14 I think, that this seems far from the due process of  
15 law.

16 THE CHAIRMAN: Yes. In a case like that  
17 there is always the question of urgency, and the question  
18 of urgency can obscure the issues because everybody  
19 is trying to cut corners and save time.

20 I am reminded of an incident where there  
21 was a fire in an army establishment at Val Cartier  
22 and everybody was taking testimony from all quarters  
23 when the investigation was being carried out, and I  
24 recall that I had a client who was accused of perjury  
25 in the case and we ultimately found out that this man  
26 had been sworn in four or five times, therefore our  
27 witness was a good one.

28 But in conditions like that you don't  
29 have the clarity or the order that should precede  
30 these investigations.





1 MR. LANGLOIS: My Lord, in that respect  
2 I wish to say that in the many years that I have been  
3 handling such cases, or that my office has been handling  
4 cases of this nature, we have never refused, even when  
5 we were given only an hour, or half an hour's notice  
6 only, to go and represent our client; and when the  
7 investigation was taking place in Montreal we always  
8 arranged to have a colleague in Montreal to be on board.

9 In the case in point, the BEACHMORE, the  
10 accident occurred in Montreal. The fact-finding  
11 investigation took place in Montreal. The evidence  
12 of the investigating officer was that the ship was  
13 going up the river to Montreal. There was no question  
14 of urgency. She could not go the other way; she had  
15 to come back to Montreal.

16 If we had been notified that this kind  
17 of evidence was going to be used against our client we  
18 would have been present, or arranged to be represented.  
19 As I said, we have never refused to do so. We have  
20 never received too much notice -- and I am not  
21 making a complaint, but I am just stating a fact --  
22 but even although we are known to be representing  
23 the pilots in the pilotage district, we have never been  
24 informed, as such, as counsel, of any such investigation;  
25 and it has been the practice of the Department, even  
26 although we have notified the pilotage authority that  
27 we were representing such a pilot, that we were mandated  
28 to do so, and even although we had represented him at  
29 such inquiry or investigation -- never did the pilotage  
30 authority communicate their decision to counsel; they





1 always sent it first to the pilot; with the result,  
2 at times, that when the pilot was not there we had  
3 to ask for delays to make our representations; because,  
4 being away, the letter had been received during his  
5 absence.

6 I should add in this case that even although  
7 we were not considered as counsel and we were not  
8 considered as being mandated by the pilot, or getting  
9 the notice, or getting the decision, to make a plea  
10 for our client, we were always granted the necessary  
11 delay to make whatever representations we wished to  
12 make.







1 THE CHAIRMAN: I think the question of  
2 writing to the man involved rather than to his counsel  
3 is a common practice with regard to all government  
4 agencies and departments. Also, the lawyer is not  
5 considered to be their person, representing their  
6 person, but just the adviser. So, therefore, in the  
7 commonlaw provinces generally they always write  
8 directly to the person concerned. I have seen that  
9 in many cases in many boards, and so on. I never  
10 liked to be told by a client what had happened in a  
11 case I pleaded.

12 MR. LANGLOIS: I do not know why there  
13 should be an exception in the case of government  
14 agencies, my lord. They are doing the work of a  
15 lawyer.

16 THE CHAIRMAN: We have already treated  
17 that particular point, but I think this comes from  
18 the status of the lawyer in the common law province,  
19 as opposed to the status of the lawyer in the Province  
20 of Quebec. In the Province of Quebec, he is the party.

21 MR. LANGLOIS: Anyway, for practical  
22 purposes, I think a lot of trouble would be saved to  
23 the pilotage authority and all concerned if counsel  
24 concerned was mandated by the client for the service  
25 of any notice of that kind.

26 In paragraph 89 of our brief, we refer  
27 to the local discipline committees which have existed  
28 for awhile but which disappeared without any reasons  
29 being given. Reference is also made to the fact that  
30 occasions have arisen where recommendations of these





1 local discipline committees -- which were composed,  
2 as your lordship knows, of representatives of the  
3 Pilotage Authority, the shipping industry and the  
4 pilot -- were completely discarded and ignored by the  
5 Pilotage Authority of the day. This arbitrary and  
6 illegal manner of conducting enquiries and investiga-  
7 tions has led, as it was bound to, to severe criticism  
8 of the system and to complete disrespect for those  
9 charged with the application of the provisions of the  
10 act dealing with pilotage matters and of the by-laws  
11 made thereunder. Some of the decisions of the Pilotage  
12 Authority were appealed by way of certiorari, before  
13 the Exchequer Court but all such cases were settled  
14 out of court, on the advice of the Department of  
15 Justice, before the case was brought to court. The  
16 cases in point are cited in paragraph 90 of the brief,  
17 the cases of the "Timna" and "Seven Skies".

18 In this respect, I wish to make a  
19 correction, my lord, and say that recently a case was  
20 brought to the court, and application for a writ of  
21 certiorari was issued by Mr. Justice Dorion, the Chief  
22 Justice of the Superior Court of Quebec, in the case  
23 of Joseph Emile Pouliot -- who was pilot on board the  
24 "LEECLIFFE HALL" when she collided with the "APPOLONIA"  
25 in the St. Lawrence River on September 5th last --  
26 v. The Honourable J. W. Pickersgill, Minister of  
27 Transport, and W. A. W. Catinus, investigating  
28 officer of the Department of Transport. This judgment  
29 was rendered on November 20, 1964.

30 I beg leave, my lord, to file here three





1 copies of the Application, of the petition for the  
2 certiorari, and three copies of the judgment of Mr.  
3 Justice Dorion, the bundle under Exhibit Number --

4 MR. NADEAU: Exhibit 1449.

5 MR. LANGLOIS: As your lordship will see,  
6 in the application of petition the allegations were  
7 made that a preliminary enquiry under Section 555 had  
8 been ordered by the Minister of Transport into the  
9 circumstances of this casualty, and that Captain  
10 W.A.W. Catinus was in charge of the conduct of such  
11 enquiry. The following allegations in support of the  
12 application are -- and I am trying to summarize them,  
13 in order to save time, my lord -- that at this  
14 enquiry which was held in Montreal on the 10th of  
15 September, 1964 -- and I refer back to paragraphs  
16 7, 8, 9, 10, 11, 12, 13, 14 and 15 of the Application --  
17 that Section 555 limited the power of the investiga-  
18 ting officer, that jurisprudence has established the  
19 fact that the pilot, as an adviser on board a ship,  
20 is not charged with the conduct of the ship; that  
21 there was no evidence adduced of gross negligence on  
22 these cases of fault on the part of pilot Pouliot;  
23 that pilot Pouliot had committed no such conduct, and  
24 no blame could be laid on him for the accident, and  
25 that such allegation was not supported by the evidence;  
26 that pilot Pouliot had not been allowed to be present  
27 or represented by counsel when other witnesses  
28 testifying before Captain Catinus into the circum-  
29 stances were being questioned or examined on the facts  
30 of the case. The allegation went on to say that there







1 was a delay of twenty one days since the suspension of  
2 the certificate had taken place and that, consequently,  
3 the Applicant was suffering grave prejudices and that  
4 the decision rendered in that case was not only  
5 contrary to the evidence, that the conduct of the  
6 investigation had been carried out and the decision  
7 rendered contrary to the provisions of the Canadian  
8 Bill of Rights, in that due process of law was not  
9 accorded to the Applicant.

10 The judgment was pronounced in favour  
11 of the Applicant, and the Minister was ordered, first --  
12 and I refer to page 7 of the judgment -- both the  
13 Minister of Transport, the Honourable J. W. Pickersgill,  
14 and Mr. Catinus, the officer of the Department of  
15 Transport, were ordered to transfer to the court all  
16 documents and proceedings in their possession in  
17 connection with this case, and there was ordered the  
18 suspension of all proceedings and the suspension of  
19 the execution of the sentence.

20 The Department of Justice was represented  
21 by its own Assistant Deputy Minister at the court  
22 proceedings. There was mention made after judgment  
23 that there was going to be an appeal, but no appeal  
24 has been made; and, so far as I know, my lord,  
25 although the suspension has been cancelled, as ordered  
26 by the tribunal, the documents pertaining to this case  
27 have not as yet been filed in the court, as ordered --  
28 unless this was done in the last few days, and out of  
29 my knowledge when I was here in Ottawa.

30 I should add that these proceedings were





1 first introduced, as your lordship knows, before the  
2 Exchequer Court of Canada, but his lordship, the  
3 president of the court, Mr. Justice Thorson, ruled  
4 that this application should be rather heard by the  
5 Superior Court.

6 THE CHAIRMAN: Because the matter of  
7 certiorari is one for the Superior Court of the  
8 Province and not the Exchequer Court, and such.

9 MR. LANGLOIS: It is not necessary to go  
10 into this judgment, but if your lordship wants me to  
11 file it ---

12 THE CHAIRMAN: No, it is not necessary.  
13 I do not think it was written, was it?

14 MR. LANGLOIS: It was.

15 THE CHAIRMAN: If it was in written form,  
16 we could get it. We are going to take a note of it,  
17 and we will see we have it in the record.

18 MR. LANGLOIS: The recommendation made  
19 in order to remedy this situation is that drastic  
20 changes should be made in the handling of discipline  
21 cases and accidents or casualties involving pilots.  
22 First of all, we should suggest that all such cases  
23 should be investigated by specially trained investiga-  
24 ting officers not connected with the operation of  
25 pilotage. Their investigations should be carried out  
26 under well-defined regulations confirmed by the  
27 Governor-in-Council. These regulations should provide  
28 for a complete procedure of investigation generously  
29 safeguarding the rights of the individual involved.  
30 The conduct of such investigation should be governed





1 by our well-established principles of justice, the  
2 law on evidence and the provisions of the Canadian Bill  
3 of Rights. In no circumstances should any individual  
4 be forced to incriminate himself.

5 Furthermore, we recommend that on  
6 receipt of the report of such investigation the Pilotage  
7 Authority -- if he happened to be the Minister, then  
8 the Minister -- should have the alternative of ordering  
9 either the case dropped or a formal investigation held  
10 under provisions comparable to those presently con-  
11 tained in Section 558 to 578 of the Canada Shipping  
12 Act, inclusive, and the rules of procedure made  
13 pursuant thereto. In no circumstances should the  
14 conduct of such formal investigation be entrusted to  
15 commissioners with no legal background.

16 I say this, my lord, because it has been  
17 in my experience that due to the lack of legal training,  
18 unwittingly these investigating officers would ask  
19 their questions in such a way that the pilots or the  
20 officers were confused; and this was done, mind you,  
21 unwittingly, due to lack of legal training; and, for  
22 the same reason, due to lack of legal training, well  
23 founded objections made by counsel were turned down  
24 or completely disregarded.

25 It is, to our mind, of paramount  
26 importance that provisions similar to those presently  
27 contained in Section 576, dealing with re-hearing of  
28 investigation and the appeal to the Admiralty Court,  
29 be preserved, together with those of Section 142,  
30 whilst the provisions of Section 579 should cease to







1 apply to pilots' licenses. However, my lord, in order  
2 not to unduly complicate matters, the administration of  
3 pilotage, the smooth running of the operation, we  
4 suggest that in minor cases involving the imposition of  
5 fines only, the Minister of Transport could impose a  
6 penalty without ordering a formal investigation -- may  
7 I say, the Minister of Transport or the Pilotage  
8 Authority, if the Pilotage Authority is not the Minister  
9 of Transport.

10 My lord, I wish to draw the attention of  
11 your Commission to another possibility of speeding up  
12 the procedure in investigation and decision resulting  
13 from accidents involving pilots, and to avoid, as a  
14 second purpose, bothering the courts, the tribunals  
15 with cases of this nature, which could be called minor  
16 cases, though the implications to the pilot could be  
17 very considerable on some occasions.

18 In order to give your lordship an idea  
19 of what could be done, and at the same time warning  
20 your Commission of the dangers in adopting such a  
21 course, I wish now to refer your lordship to what I  
22 find myself and consider an excellent work, study of  
23 the operation of administrative boards and commissions.  
24 I refer your lordship to the, "Extracts of eleven  
25 lectures on administrative boards and commissions --  
26 administrative tribunals" by Associate Professor  
27 R. I. Cheffins. This extract was made by the Canadian  
28 Bar Association, and your lordship, no doubt, must have  
29 in his library this extract of the eleven lectures by  
30 Professor Cheffins.





1 THE CHAIRMAN: Do you have the reference?

2 MR. LANGLOIS: It is an extract of  
3 eleven lectures on administrative boards and commiss-  
4 ions -- administrative tribunals -- by Associate  
5 Professor R. I. Cheffins.

6 THE CHAIRMAN: Do you know where it is  
7 reported?

8 MR. LANGLOIS: It is a report we received  
9 recently as a member of the Canadian Bar Association.

10 THE CHAIRMAN: So, I have it in my  
11 library now?

12 MR. LANGLOIS: Yes.

13 THE CHAIRMAN: I have not been able to  
14 keep up, lately!

15 MR. LANGLOIS: I can understand that,  
16 my lord.

17 COMMISSIONER SMITH: Will it be in the  
18 Canadian Bar Review?

19 MR. LANGLOIS: No, it is a separate  
20 document.

21 This study was made on the matters  
22 studied by the Franks Committee in Great Britain and  
23 the Gordon Committee in Ontario. I wish to quote what  
24 Professor Cheffins has to say in connection with the  
25 purpose of such administrative boards:

26 "It is unnecessary to comment at any length  
27 on the development and increased growth of  
28 government. It seems generally agreed that  
29 government is big, with the strong possibility  
30 that it will get bigger. The question of





greater interest is that of trying to ascertain how government should adapt itself to its larger role in present day society. The establishment of boards and commissions has been one of the methods that has been adopted to cope with the new responsibilities which government has assumed. These Agencies Have Generally Been Used To Fill Gaps In The Traditional Structure of Government. To them have been assigned the task of handling matters which could not appropriately be assigned either to the courts or to other parts of the existing governmental machinery. Despite their limitations, the theoretical advantages which administrative tribunals possess as compared to the courts, in handling certain problems, is now generally accepted. They can, in theory and usually in practice, offer freedom from technicality, cheapness, assessability and expert knowledge of their particular subjects. Furthermore, the establishment of these bodies has saved the courts from having to assume the tremendous burden of extra work. Before anyone loosely criticizes the delegation of quasi-judicial or judicial functions to administrative agencies, he should first ask himself the question of what would be the impact on our courts if the responsibility now assumed by these bodies was suddenly transferred to the ordinary judicial system.







1                   While it was inappropriate to assign  
2                   many of these problems to the courts, the  
3                   legislators often recognized the undesirability  
4                   of assigning them either to a Minister or to  
5                   an ordinary departmental official. It was  
6                   usually recognized that it would be highly un-  
7                   satisfactory to cast the civil servant in the  
8                   role of judge in a dispute between the private  
9                   citizen and government".

10                  Here, might I interject to say that is  
11                  why I suggest the investigation and decisions on  
12                  pilotage matters should be taken away from those  
13                  charged with the administration of pilotage. This goes  
14                  further and says it should be taken away even from  
15                  civil servants.

16                  "The Administrative Tribunal, Therefore,  
17                  Provided a Suitable Middle-Ground Between  
18                  the Courts on the One Hand and the Civil  
19                  Service on the Other.

20                  There is, however, "  
21                  -- and this is the warning, my lord --

22                  "There is, however, always the danger that  
23                  delegating authority to an administrative  
24                  tribunal provides a government with a relatively  
25                  quick and easy solution to a problem. A board  
26                  or commission should only be created when it  
27                  is very inappropriate to assign new responsibil-  
28                  ities to either the courts or a department.  
29                  The Franks Committee pointed out that:

30                  "As a matter of general principle, we





1 are firmly of the opinion that a  
2 decision should be entrusted to a court  
3 rather than to a tribunal in the absence  
4 of special considerations which make a  
5 tribunal more suitable".

6 Now, with your lordship's leave, I will  
7 quote that part of this work having to do with appeals  
8 from such administrative tribunals; and this is,  
9 again, a condensation or resume made by both the  
10 Franks Committee in Great Britain and the Gordon  
11 Committee in Ontario:

12 " 'With respect to appeal and judicial review,  
13 they suggested that ideally there should be  
14 an appeal on fact, law and merits from a  
15 tribunal at first instance to an appellate  
16 tribunal, except where the first tribunal  
17 is especially strong and well qualified,  
18 though they noted this appeal to a second  
19 tribunal need not be heard orally.

20 'They recommended further that all tri-  
21 bunal decisions should be subject to judicial  
22 review on points of law and that no statute  
23 should contain words purporting to oust  
24 remedies provided by Certiorari, Prohibition  
25 and Mandamus. Asking what Lord Reading calls  
26 "Sputnik-like speed", the Government accepted  
27 the majority of the committee's recommenda-  
28 tions and accordingly implemented them by  
29 passing the Tribunals and Enquiries Act. The  
30 Act established a Counsel on Tribunals con-





1                   sisting of at least ten but not more than  
2                   fifteen members. It is given no executive  
3                   power, its responsibilities being of an  
4                   exclusively advisory nature. Its tasks are  
5                   laid down by the Act:

6                   (a) to keep under review the constitution  
7                   and working of the tribunals  
8                   specified in the First Schedule to  
9                   this Act (being the tribunals con-  
10                  stituted under or for the purpose  
11                  of the statutory provisions speci-  
12                  fied in that Schedule), and, from  
13                  time to time, to report on their  
14                  constitution and working;

15                  (b) to consider and report on such  
16                  particular matters as may be  
17                  referred to the Council under this  
18                  Act with respect to tribunals other  
19                  than the ordinary courts of law,  
20                  whether not specified in the Fourth  
21                  Schedule to this Act, or any such  
22                  tribunal;

23                  (c) to consider and report on such  
24                  matters as may be referred as afore-  
25                  said, or as the Council may determine  
26                  to be of special importance, with  
27                  respect to administrative procedures  
28                  involving, or which may involve the  
29                  holding by or on behalf of a  
30                  Minister of a statutory enquiry, or







any such procedure".

I think, my lord -- and this was my purpose in quoting from this excellent work -- that this work contains a lot of food for thought, a lot of material to be borne in mind. I am not prepared to recommend that an administrative tribunal be set up in this instance, but I think that the principles laid down in this work, in the recommendation of these two committees, should be borne in mind in order to find out if within these principles, within these recommendations, there does not lie the solution to the problem I have just outlined and which forms part of this recommendation, as contained in the brief, on disciplinary measures and shipping casualties.

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1 Before commencing with this chapter, My  
2 Lord, I wish to bring to the attention of this Commission  
3 -- possibly I should have done this before -- two cases  
4 where there has been abuse of the powers contained in  
5 the general bylaws of the district to penalize pilots  
6 for breach of the bylaws. I say this again because I  
7 think there is a situation that must be remedied.  
8 There is an attitude of mind there which is prejudicial  
9 to the good function of the pilotage administration  
10 and its operation throughout Canada.

11 I wish, further, to refer Your Lordship,  
12 if your Lordship will accept it, to the file in the case  
13 of the SPRUCEDALE. I won't mention the pilot. This  
14 ship recently was in collision with the ANNETT...

15 THE CHAIRMAN: Will you give the date so  
16 that we can identify it?

17 MR. LANGLOIS: Yes. The ships were  
18 proceeding down between Montreal and Quebec, abeam of  
19 St. Nicholas in the St. Lawrence River. The date was  
20 June 12th. The time of this collision was 1650 hours.  
21 Damages were negligible. As one ship was overtaking  
22 the other it apparently passed too close, or misjudged  
23 the distance, I don't know what took place -- but they  
24 barely grazed one another, with no damage except for a  
25 bit of paint, or the scratching of paint.

26 The pilot who was on the ship being over-  
27 taken, of course, couldn't be held responsible for the  
28 accident; he was being overtaken. This was recognized  
29 by the pilotage authority after the investigation into  
30 the matter; but the pilot was charged with a violation





1 of section 12 paragraph (3) of the general bylaws of  
2 the Montreal pilotage district, for not having reported --  
3 and I am looking at the words in the bylaw --  
4 "...by every available means" -- the accident right away.  
5 The accident occurred, My Lord, on Friday afternoon of  
6 June 12th.

7 The pilot on the ship which was being over-  
8 taken, and who was not at fault and declared as not  
9 being at fault by the pilotage authority for the  
10 accident, reported the accident on the arrival of his  
11 ship at Three Rivers. He rested there, and then  
12 the following day took another ship to come down to  
13 Quebec, arriving in Quebec on Sunday. On Sunday, of  
14 course, the superintendent's office in Quebec was closed;  
15 there was nobody to report to but the clerk, but he had  
16 reported to the clerk in Three Rivers.

17 Now this man is being charged with having  
18 violated the bylaw for not having used every available  
19 means to report the accident.

20 THE CHAIRMAN: Aside from being charged...

21 MR. LANGLOIS: He is not charged with  
22 the accident. He wasn't found to be at fault.

23 THE CHAIRMAN: But for the violation of  
24 the bylaw -- was he found guilty of that?

25 MR. LANGLOIS: He is being charged.  
26 He has received a so-called letter...

27 THE CHAIRMAN: I am pretty sure that  
28 when all the facts are brought to the attention of the  
29 one who is going to decide, if the facts are as you  
30 have stated as to what he did and so on then it is going







1 to be decided on its merits and it is now being disposed  
2 of. It is one thing charging a man and another  
3 finding him guilty.

4 MR. LANGLOIS: Well, I think that in  
5 such a case, when all these facts were brought to the  
6 pilotage authority, he shouldn't have been charged.  
7 Because what should he have done?

8 THE CHAIRMAN: I don't know.

9 MR. LANGLOIS: Should he have sent a radio  
10 telephone message and told the clerk:

11 "Well, I have just been brushed by another ship"?  
12 If every time a ship bumps a wall, or something like  
13 that -- breaks a line in coming alongside and he has  
14 got to report...

15 THE CHAIRMAN: It is a question of what  
16 is an accident and what is an incident.

17 MR. LANGLOIS: If for these very minor  
18 things the pilot has got to use the radio telephone  
19 the entire radio telephone volume of traffic will be  
20 so great that it might prevent the passing of important  
21 information.

22 THE CHAIRMAN: Do they happen that often --  
23 those minor things?

24 MR. LANGLOIS: Oh, yes, My Lord, quite  
25 often.

26 I have another case here where there was  
27 a ship, the NAVIGATOR -- I won't give you the name of  
28 the pilot. She started going up the Saugenay River  
29 in this very narrow winding channel leading to  
30 Chicoutimi in circumstances about the same as experienced,





1 My Lord, when the Commission was taken on the yacht  
2 to Chicoutimi and we were caught in rain and where  
3 the visibility suddenly becomes nil. That ship was  
4 going up the Sauganey when suddenly the visibility  
5 became nil. It is impossible to navigate by instruments  
6 in this narrow channel and very strong current, with  
7 many curves, and if you don't see the land you cannot  
8 proceed and it is almost impossible to anchor; so she  
9 grounded at Riviere Du Moulin on the 16th of November  
10 at 1120 hours.

11 She refloated the same evening at high  
12 tide and headed for Chicoutimi. There was no radio  
13 telephone on the ship. How could the pilot report  
14 the accident?

15 I open brackets here to say that in the  
16 case of grounding in the channel I think the pilot should  
17 report this because this is a danger to navigation,  
18 and if only to give warning to other traffic I think  
19 it should be done. But in this case he had no radio  
20 telephone and he could not report it. But as soon as  
21 he was in Chicoutimi the captain told me that he did  
22 phone his agent in Quebec and advised him of the  
23 accident so that he could pass on the information.

24 But the ship had already been refloated.  
25 That is another case again where this pilot received  
26 a letter for having violated the Quebec district  
27 general bylaws.

28 THE CHAIRMAN: We have the same thing  
29 in the case of motor vehicles where, in the case of  
30 the accident, both parties involved are supposed to





1 report an accident.

2 MR. LANGLOIS: But these minor things --  
3 surely it is a matter of judgment. They are harassing  
4 and they create bad feelings for nothing and serve no  
5 good purpose. The pilots get to the point where  
6 they fear that if they do anything they get a reprimand.  
7 It is almost impossible to do anything otherwise than  
8 when it is done to have to face an investigating officer,  
9 to have to make a plea, to go to a lawyer; and these  
10 men are not trained like we are; they are not used to  
11 that. No wonder some of them are becoming nervous,  
12 My Lord.

13 With that, I would like to call for a  
14 recess, My Lord, before I pass to the last chapter of  
15 my address.

16 THE CHAIRMAN: We will have a ten-minute  
17 recess.

18  
19 --- Recess  
20

21 MR. LANGLOIS: My Lord, with your leave,  
22 I would like to add to my closing remarks in connection  
23 with the chapter of the brief of the Canadian Merchant  
24 Service Guild dealing with disciplinary matters by  
25 referring Your Lordship to the evidence which was  
26 adduced at the hearing of the formal investigation  
27 into the collision between the S/S LEECLIFFE HALL and  
28 the APPOLONIA.

29 This has to do with a matter which is  
30 very important, to my mind, as to whether suspensions







1 are the proper remedies, the proper solutions to arrive  
2 at, following the finding of a pilot, or a ship's  
3 officer -- and this applies only to officers in charge  
4 of a ship -- guilty of an offence.

5 THE CHAIRMAN: It might have been quite  
6 proper years ago. However, as to whether it is now...

7 MR. LANGLOIS: In this respect I wish to  
8 say that counsel appearing before this formal in-  
9 vestigation into the collision between the Leeccliffe  
10 Hall and the Appolonia were almost unanimous in  
11 expressing an opinion along the lines that suspension  
12 might not be the proper answer to the problem, and I  
13 wish to refer Your Lordship to the address -- part of  
14 the address -- made by Mr. Frank Gerity, Q.C., of  
15 Toronto, who was acting as counsel for the master of  
16 the Leeccliffe Hall.

17 I am referring Your Lordship to Volume  
18 10, pages 1823, 1824, 1825 and 1826 of the evidence,  
19 and I quote, in part:

20 "Now, as to the final question, My  
21 Lord, which is also in part raised in the  
22 supplementary questions, I say to Your  
23 Lordship that it is worth considering  
24 several factors. First, the most recent  
25 decision of a court such as your Lordship's  
26 in England, which I obtained from London a  
27 week or so ago. The Commission consisted  
28 of Mr. Adams, Q.C., and two assessors.  
29 I think Mr. Adams is well enough known  
30 to call for no comment from me. They





1 decided unanimously in paragraph 11 of  
2 their report..." -- and I quote the paragraph:

3 "It has been customary in cases of  
4 this kind, when the Minister has asked that  
5 certificates should be 'dealt with,' for  
6 Courts holding formal investigations to suspend  
7 the certificates of masters adjudged culpable.  
8 Presumably it has been thought that suspension  
9 does some good. What good it does it is  
10 less easy to ascertain.'

11 There was certainly no statistical  
12 evidence, nor, indeed, any other sort of  
13 evidence, to support the proposition that  
14 such suspension has a deterrent effect on  
15 others. It may be that this way of dealing  
16 with such cases has become a ritual.

17 I submit that is so, My Lord.

18 If a suspension is imposed which  
19 allows a master to go to sea again within a  
20 short time it may give the impression that  
21 the fault in respect of which it was imposed  
22 is not a grave one. If the suspension is  
23 long enough to hurt it may result in putting  
24 its victim so much out of the practice of  
25 his profession as to impair his efficiency for  
26 the future. This will depend on the age  
27 and seniority of the man involved, and as in  
28 all forms of sentencing, regard must be had to  
29 the individual. To neglect such considerations  
30 would be to act blindly upon the basis of





1 precedents for which no one can confidently  
2 assert any justification.

3 Now, I suggest to Your Lordship that  
4 in all these classes of cases suspension of  
5 certificates should only be upon dereliction  
6 of duty of a shipmaster, and an error of  
7 judgment, which is permitted to all human  
8 beings, should not result in the loss of  
9 one's livelihood and this is an automatic  
10 suspension.

11 This is not a Magistrate's Court, My  
12 Lord. We are not dealing with a left hand  
13 turn in infringement of a city bylaw.

14 However, again, and above that, Captain  
15 Bowen's present age is 66, as Your Lordship  
16 knows, and insofar as anything before this  
17 Board is concerned he has blamelessly  
18 navigated his ship without difficulties  
19 whatsoever in 35 years and for the greatest  
20 part of that time without the assistance of  
21 pilots..."

22 Probably I should have skipped that part, but this is  
23 what is said and I am quoting what was said.

24 I should add here that he was on smaller  
25 canalers before.

26 To continue with the quotation from  
27 Mr. Gerity:

28 "...These considerations, being weighted  
29 in the light of what I have quoted from the  
30 Most recent findings of the Commission, should







1 allow your Lordship, I submit, to hold that  
2 no such suspension as that asked for should  
3 in fact be allowed, and that in sum and  
4 substance going at 4 and 5 knots faster  
5 that might perhaps have been proper is  
6 the only offence that can be charged and  
7 this penalty is quite out of proportion to  
8 the offence..."

9 These remarks were made, along the same lines, by other  
10 counsel, as I said, representing the pilot and even  
11 the shipowner in this case.

12 Now, My Lord, I come to part 2 of my  
13 address where my clients wish to make recommendations  
14 to this Commission having to do with the administration  
15 and operation of pilotage; but before going into this  
16 chapter I wish to deal briefly with what the status  
17 of the pilots is.

18 There has been filed before this Commission  
19 a pronouncement by Mr. Justice A.I. Smith in the  
20 District Disciplinary Court of Quebec in the case of  
21 the JOHN E. MISENER, where His Lordship decided that the  
22 pilot had not the charge of the navigation of the vessel  
23 but was merely an adviser to her master. This  
24 pronouncement was supported by many citations of  
25 jurisprudence in England and doctrine as contained in  
26 this excellent work on collisions at sea by Marsden,  
27 and at page 1884, Volume 11 of the transcript of  
28 evidence of the formal investigation into the collision  
29 of the LEECLIFFE HALL and the APOLONIA, again reference  
30 was made by your humble servant to Marsden on Collisions,





1 the 10th Edition, at page 252 where it is stated,  
2 and I quote:

3 "The pilot does not supercede the master in  
4 the command and conduct of the ship. The  
5 responsibility as regards navigation of the ship  
6 remains with the master."

7 In the same volume of the transcript of  
8 the proceedings of the formal investigation into the  
9 circumstances of the collision between the IEECLIFFE  
10 HALL and the APOLONIA at pages -- apparently in this  
11 part of the evidence they forgot to mark the pages,  
12 but the last page which is marked is page 1863.  
13 This is in the argument by counsel Dufour who was  
14 acting for the pilot of the APOLONIA, and I am sorry  
15 that I cannot give you the page in the transcript:  
16 Captain Marsden, on the Law of Evidence at Sea, page  
17 250, quotes the judgment of Lord Normand in the Towerfield,  
18 1951 appeal cases, 112:

19 "There would seem to be no reason why  
20 pilots should not be treated merely as expert  
21 advisers to the master."

22 Then, later on, were some other references to the  
23 doctrine and to a judgment quoted also by Mr. Dufour  
24 in the same direction; so I think we must take it as  
25 a well-established doctrine and principle of law in  
26 Canada as well as in Britain that the pilot is an  
27 adviser to the master.

28 Being an adviser to the master he is an  
29 expert in local conditions and he is a man of profession,  
30 to my way of thinking. Also, it is my contention --





1 and in this I am in agreement with counsel for the  
2 pilots of the St. Lawrence River district -- he is  
3 an independent contractor, and this is the attitude  
4 which has been taken by pilots across Canada in their  
5 submissions to this Commission.

6 Now, if the pilot is an adviser, is a  
7 man of profession and is an independent contractor  
8 how can his functions be best dealt with, best regulated --  
9 because they should be -- by a public body, because  
10 he is rendering a public service; and how should  
11 pilotage be administered and by whom in order to provide  
12 the necessary safety to navigation and to shipping in  
13 general?

14 In that, I am mandated My Lord, to speak  
15 on behalf of all the pilots members of the Canadian  
16 Merchant Service Guild, and I wish to remind Your  
17 Lordship that except for 8 or 9 pilots in the district  
18 of Halifax the Canadian Merchant Service Guild has  
19 the full membership of all the pilots of all the other  
20 organized districts in Canada.

21 Your Lordship's Commission has been supplied  
22 with various suggestions in this connection, and the  
23 first was one made by the Shipping Federation of Canada  
24 in their brief which was later amended by their counsel  
25 in his address to this Commission. I do not want to  
26 be repetitious but I think I should outline briefly  
27 what he recommended:

28 That is, first, a Board composed of a man with  
29 experience in navigation, one man with legal training  
30 and one man with accountant training; and as an advisory







1 committee to this he suggested that the following members  
2 should be brought in as advisory members:

3 One from Trade and Commerce, one from the St. Lawrence  
4 Seaway Authority, one from the Department of Transport,  
5 one from the National Harbours Board and one from  
6 the Treasury Board. As I said the other day, I  
7 don't think that is the way of doing away with  
8 government, by putting more government into the  
9 organization of the central administration of pilotage.

10 Mr. Brisset, with due respect to his  
11 opinion, stated at the time that he would recommend  
12 the breaking of new ground. I think he is not  
13 breaking new ground. He is just merely tramping over  
14 old ground and getting deeper into it. That is my  
15 impression, that we are getting in more and more  
16 departments of government and more, therefore, so-called  
17 political implications and interferences.

18 Then, at the local level he recommended  
19 that in the St. Lawrence Seaway the St. Lawrence Seaway  
20 Authority be the pilotage authority. I have already  
21 commented on that and I do not want to come back on it.

22 In the harbour of Montreal he recommended that  
23 the Harbours Board be the pilotage authority for that  
24 part of the river from the western limits of the port  
25 of Montreal to Sorel.

26 As Your Lordship knows he is asking there  
27 to change the present formation of the boundaries of  
28 the district and form the district from Sorel to  
29 Quebec. He is recommending that the local Commission,  
30 committee, or whatever you call them, be composed of a





1 man in transportation, and I have the impression that  
2 he suggested that the marine agent at Sorel be a member  
3 of the Board. Well, I am afraid that a suggestion of  
4 this kind would not only bring in more government even  
5 at the local level but also bring in more confusion.

6 For example, if the marine agent at Sorel  
7 is part of the pilotage authority for that district from  
8 Sorel to Quebec he is going to overlap and he is  
9 going to overlap into the field of activities of the  
10 marine agent at Quebec, because the district of the  
11 marine agent at Sorel -- the westerly limit -- ends  
12 at a point which is roughly some 40 miles above Quebec.





1 And from there on it is under the district, Quebec, so  
2 there will be a conflict, because you will have the  
3 agency of Sorel having to do that pilotage in a district  
4 over which it has no control, and concerning which he  
5 has nothing to do as to aids to navigation.

6 For the Quebec district, then, Mr. Brisset,  
7 on behalf of the Shipping Federation, suggested that a  
8 man from the National Harbours Board Administration of  
9 the Port of Quebec be brought in, presumably as  
10 Chairman, and that the District Marine Agent of Quebec  
11 be brought in as part of its Committee. There again,  
12 the overlapping would exist, this being not our kind  
13 of the limits of the marine agent overlapping those of  
14 the pilotage district under the Commission or which  
15 the Soreil agent would be part, but apparently the  
16 Shipping Federation forgot Chicoutimi was also  
17 National Harbours Board and was in that district, so  
18 the authority of the National Harbours Board in Quebec  
19 was completely independent of Chicoutimi and vice versa.  
20 I do not know how the master of the National Harbours  
21 Board in Chicoutimi would like to be dictated to by the  
22 manager of the Port of Quebec. This shows this very  
23 complicated way of dealing with pilotage would only  
24 breed confusion and more confusion.

25 The same thing applies where it was  
26 suggested with regard to Sydney that the Chairman  
27 should be the manager of the Port of Sydney. He  
28 apparently forgot there was no marine agent residing  
29 in Sydney, because Sydney is within the district of  
30 the agent based at Halifax. Can you imagine a man at







1 Halifax having to do with pilotage in Sydney? That  
2 would be one way to start a civil war there, my lord.

3 So, my lord, I think this is sufficient to  
4 show that this system of bringing in more government,  
5 more departmental officers, will not be the solution.

6 THE CHAIRMAN: There are two philosophies  
7 there, as to whether the members of these boards should  
8 be made up of the interested parties or should be made  
9 up of people not connected at all with the work, so  
10 that there should not be and could not be any conflict  
11 of interest. So, those are the two different ways of  
12 thinking.

13 MR. LANGLOIS: Yes, I understand, my lord.

14 THE CHAIRMAN: I am just putting that; it  
15 is just a remark.

16 MR. LANGLOIS: But if your lordship will  
17 allow me a comment, if this recommendation is predicated,  
18 as it was, on the fact there was too much government,  
19 there is a contradiction somewhere. That is the only  
20 point I want to make, in addition to the confusion  
21 it will breed by this bringing in of more local people  
22 having different functions in the same pilotage district,  
23 similar in some cases, but representing different  
24 interests.

25 The Dominion Marine has recommended that a  
26 board be established similar to the National Harbours  
27 Board organization. That it will be called a board  
28 or commission of pilotage was not of any importance,  
29 but this was the general principle and the line of the  
30 recommendation, that instead of having the administra-





tion of pilotage come under the Department of Transport or any other department of government, it should be an administrative board.

The Vancouver Chamber of Shipping adopted, through its counsel, in its address, the original recommendations numbers 1 and 2 as made in the original brief of the Shipping Federation. But, as your lordship will recall, when I asked Mr. Bird if he was prepared to go as far as Mr. Brisset had gone in his address, he categorically said, "no".

Now, we come to the recommendations made by the pilots. First of all, the pilots of the British Columbia Coast, in their brief, have recommended -- and this is Recommendation Number 5 -- that:

"The Pilotage Board under the authority of the Minister of Transport should be set up in Ottawa with jurisdiction over all pilotage matters. This Pilotage Board should be composed of a Chairman, with no less authority than the present Director of Marine Regulations and members representing the shipping industry and active pilots".

This was coupled with Recommendation Number 1 which submitted that many local problems should be dealt with by the local Superintendent, and there should be more authority at the local level.

At the beginning of the hearings of this Commission this was the general thinking of the pilots, but this thinking has altered in the face of the





1 evidence adduced before this Commission and in the face  
2 of the presentations made by other parties, and as a  
3 result, also, of a more careful consideration of the  
4 implications of the suggestions on recommendations as  
5 originally made. Now I am mandated by the pilots to  
6 recommend that they are prepared to support the  
7 recommendation as made by the Shipping Federation of  
8 the St. Lawrence River, to the effect that pilotage  
9 should be administered and operated by the pilots  
10 themselves whenever and wherever it is feasible and  
11 advisable to do so -- that that should be the general  
12 rule. In this direction, they are prepared to support  
13 the recommendation made, Recommendation Number 3 of  
14 the general recommendations of the brief of the  
15 Federation of the St. Lawrence River Pilots regarding  
16 the appointment of a pilotage commissioner with the  
17 duties, functions and jurisdiction and powers as  
18 described in the brief, which I need not repeat here  
19 because your Commission is well acquainted with them.

20 They are also prepared to support the  
21 further recommendation that this pilotage commissioner  
22 be advised by a consultative committee, as contained  
23 in Recommendation Number 4 of the Federation of the St.  
24 Lawrence River Pilots, composed of representatives of  
25 industry and pilotage.

26 They are also prepared -- as I said,  
27 wherever and whenever in those districts it is feasible  
28 so to do -- the pilots are willing to take over the  
29 administration of the pilotage for the local administra-  
30 tion of pilotage as recommended by the pilots -- is









1 Recommendation Number 5, if my memory serves me well --  
2 and that it be implemented. But in those districts  
3 where it is neither feasible for economic reasons  
4 nor desirable for other reasons, or where the pilots  
5 are not prepared, due to local conditions, to take  
6 over completely the administration of pilotage, it is  
7 recommended that pilotage be administered and operated  
8 at the local level by a commission or corporation or  
9 board -- the name is not important -- composed of an  
10 appointee by the commissioner of pilotage, the top man  
11 in Ottawa, and assisted by two members, one recommended  
12 by the pilots and one recommended by the shipping  
13 industry; but that as far as administration is concerned,  
14 as far as local decisions are concerned, this board  
15 have total administration, subject to the reservations  
16 and subject to the points in the brief of the Shipping  
17 Federation of the final control or supervision by this  
18 higher up man in Ottawa, who would be the Commissioner  
19 of Pilotage.

20 THE CHAIRMAN: In a limited way, however;  
21 otherwise it would amount to denial to the first  
22 instance -- like in our Court of Appeal, only in cases  
23 of matters of fact or for grave error, and things like  
24 that.

25 MR. LANGLOIS: And, my lord, the pilots  
26 have taken the stand, and they still maintain that  
27 stand, that primarily the cost of administration and  
28 operation of pilotage should be borne by users. They  
29 realize, as it has also been realized by the pilots of  
30 the Federation of the St. Lawrence River, and their





1 counsel said so in his address -- they recognize that  
2 in some districts it will be necessary to continue  
3 subsidizing pilotage. Wherever and whenever it is  
4 desirable and should be done, it should continue today  
5 under the local administration, as contained in this  
6 amended recommendation of the Merchant Service Guild  
7 in connection with the setting up of local committees,  
8 boards, or commissions, with an appointee of the  
9 Commissioner of Pilotage in Ottawa, assisted by two  
10 members, one appointed by the shipping industry and  
11 one by the pilots.

12 My lord, this is the final recommendation  
13 of the Canadian Merchant Service Guild, and I do not  
14 think it is further necessary for me to elaborate on it,  
15 unless I be repetitious in repeating the argument so  
16 ably put forward to this Commission by Mr. Lalonde as  
17 counsel for the St. Lawrence River pilots.

18 Now, my lord, I come to the conclusion of  
19 this lengthy address. I would have liked to be much  
20 shorter, if it had only been for my own individual  
21 good, for reasons that you know due to my physical  
22 condition during the last few days, but this was not  
23 foremost in my mind. What was foremost in my mind was  
24 that I was probably in the course of this long  
25 address too repetitious. I was probably at times, and  
26 I am sure I was bringing some boredom into the proceed-  
27 ings of this Commission. I am grateful for having  
28 accorded me this indulgence which I solicited in my  
29 opening remarks, and I am also grateful for the  
30 forbearance with which you have listened to my





1 argumentation, which is not mine but the argumentation  
2 of the pilots of Canada.

3 I am sure that I am expressing the un-  
4 reserved views of all the pilots of Canada when I say  
5 that they are most grateful to your Commission for the  
6 excellence of the work that you have done. And these  
7 thanks also I wish to go to those who have so ably  
8 seconded your efforts -- your counsel, your secretariat,  
9 your advisers. In this, I wish to include also those  
10 officers of the Department of Transport who have  
11 provided your Commission and all the parties interested  
12 in this work, with all the information, and they have  
13 almost been ever present at these sittings of this  
14 Commission.

15 One I wish to especially mention is our  
16 good friend, Captain Slocombe. I wish to say, my lord,  
17 in all sincerity -- and, again, I am sure I am speaking  
18 on behalf of all the pilots -- that if we have been  
19 hard at times in our remarks, we ask his forgiveness,  
20 because it was not intended to be that.

21 For myself, if I may add a personal note,  
22 I have worked for a good many years with Captain  
23 Slocombe, both here in the Department, when I was a  
24 parliamentary assistant to the Minister, and since then  
25 in the discharge of my functions as counsel for, at  
26 times, the shipping industry and for, at times, the  
27 pilots. Even though we have not always seen eye to eye,  
28 Captain Slocombe and I, even though I could go as far  
29 as to say we have been at odds more often than we have  
30 been in agreement, because he is not a man to say "yes"









1 so easily, I have to say he has always been a man very  
2 easy of approach, always easy to talk with, and he has  
3 always been ready to listen. I am sure that he did  
4 everything he could to discharge the high burden of his  
5 functions.

6 If the administration has been wanting in  
7 its dealings with pilots and with the shipping industry,  
8 and the looking after of pilotage, it was not, my lord,  
9 I am sure, on account of those who were charged with  
10 the administration of the pilotage division in the  
11 Department of Transport. As I said earlier this  
12 morning, it was because they did not have the tools to  
13 do the job, as Sir Winston Churchill so ably had  
14 occasion to remark at the beginning of the last world  
15 conflict, when he said, "Give us the tools and we will  
16 finish the job".

17 My lord, I know that your lordship,  
18 Commissioner Smith and Commissioner Renwick appreciate  
19 the importance of your task. I know that, because you  
20 have already demonstrated it in the tremendous volume  
21 of work you have done so far in this Commission.  
22 Although today I walk out of this courtroom relieved  
23 of a heavy burden, because I will have the feeling that  
24 I have completed my participation in the work of this  
25 Commission, I will leave this courtroom thinking,  
26 however, that if my task has ended, yours, and probably  
27 the worst part of it, is just starting. But the pilots  
28 of Canada, the shipping industry and the public in  
29 general are confident that this task will be carried  
30 out with efficiency, with competence, and we all join





1 in hoping that your Commission will be listened to,  
2 because we are sure in our hearts that its recommenda-  
3 tions will be for the good of all those concerned and  
4 for the good of Canada. I thank you.

5 THE CHAIRMAN: Mr. Langlois, we thank you  
6 very much for all you have done for us, and especially  
7 for the benefit of your long experience in those matters  
8 you gave us throughout these hearings. This is going  
9 to be a great help to us.

10 You spoke of our advisers, and that reminded  
11 me that we should not conclude without having a thought  
12 for Captain Scott here at the end of these public  
13 hearings, Captain Scott who met with such a tragic fate  
14 while discharging his duties as a nautical adviser for  
15 this Commission. The reports and studies that he made  
16 have been a great help to us and will contribute  
17 greatly to the success of our report.

18 We thank you also for the kind words you  
19 have for us and for all your wishes -- and, as I told  
20 you before, we need them.

21 Now, Mr. Smith has a word to say.

22 COMMISSIONER SMITH: If your lordship  
23 pleases, before the stenographers write their "30" at  
24 the end of the final transcript, I should like to say  
25 how much I enjoyed my association with, and as a modest  
26 member of, this the Royal Commission on Pilotage.

27 There has been a marked degree of co-opera-  
28 tion and goodwill from every source -- particularly  
29 shipping, pilotage, the Department of Transport, other  
30 departments of government, associations, corporations,





1 societies, individuals and others appearing before us.

2 As to shipping, I cannot refrain from  
3 expressing thanks for the great assistance and good  
4 information received from the evidence on maritime  
5 matters of Messrs. Colley, Nearn, Captain Matheson  
6 and many others representing the shipping industry of  
7 Canada which is so deeply interested in and frankly  
8 concerned with the nation's commerce and efficient  
9 pilotage.

10 As to the pilots appearing before this  
11 Commission, their corporation was above praise in  
12 every place where we held hearings. The forthright  
13 evidence of such high-class pilots as Captains Gilley,  
14 McKay, McAlee, the late Captain Goss, and others  
15 on the west coast; of Captains Hancock,  
16 Cooke and many others in the Atlantic provinces; of  
17 such top-rung experts as Captains Bedard, Captain  
18 Rousseau and many others in the Quebec and Montreal  
19 districts; and also of others in the central regions  
20 of Districts 1, 2 and 3 -- all representing as they  
21 did, so well the profession they follow to ensure that  
22 navigation in close, narrow and restricted waters of  
23 the country would be less dangerous in the navigation  
24 of ships by efficient pilotage, and their recommenda-  
25 tions to that end -- their evidence was most illuminat-  
26 ing.

27 As to our own Commission assistants, the  
28 capable and courteous secretary, Mr. Nadeau, and his  
29 able assistant, Mr. Morrisset, Captain Joe Heenan  
30 and all headquarters staff of the Royal Commission







1 cannot go unnoticed in this tribute. The officials of  
2 the Department of Transport in the field and at head-  
3 quarters were most co-operative. I think especially  
4 of the Deputy Minister of Transport, Captains Slocombe,  
5 Jones and Sealey, and also the Department of Transport  
6 legal adviser, Mr. Ron McGillavry.

7 Now, finally, I come to the most competent  
8 counsel appearing before us:

9 Mr. Langlois, who has just finished his  
10 most admirable, logical and telling presentation on  
11 behalf of his clients, and to our own enlightenment,  
12 is deserving of special thanks;

13 Mr. Brisset, the most able lawyer in  
14 maritime law and allied questions, whose presentation  
15 was most impressive, drawing, as he did, on his wealth  
16 of experience in maritime law;

17 Mr. Lalonde, whose skillful presentation of  
18 the pilots' case was a masterpiece of legal excellence;

19 Mr. Mahoney, who so adroitly and competently  
20 represented the Dominion Marine Association and many  
21 others too numerous to mention, helped me tremendously  
22 in better understanding of pilotage, shipping and  
23 allied questions.

24 My complete thanks to all.

25 THE CHAIRMAN: Mr. Renwick?

26 COMMISSIONER RENWICK: My lord, and fellow  
27 Commissioner. I wish to identify myself with the  
28 remarks made by my colleague, Commissioner Smith. They  
29 are well said and they are all factual.

30 I wish to go one step further, however, and





1 pay special tribute to our learned counsel, Mr. Maurice  
2 Jacques, who has contributed greatly to our knowledge  
3 and stature in the position we find ourselves in here  
4 on the Commission.

5 Now, as to Mr. Langlois, I again endorse  
6 what Mr. Smith has said, but I want to correct a state-  
7 ment he made to me when we met first. When you, my  
8 lord, introduced me to Mr. Langlois at the opening of  
9 these hearings some two or more years ago, Mr. Langlois  
10 looked at me and said, "You will be very tired looking  
11 at this face of mine by the time I am through". I can  
12 assure you, Mr. Langlois, such has not been the case.  
13 I have enjoyed every bit of your testimony and every  
14 bit of your work on the stand. I just regret the fact  
15 I will not be looking at you from this elevation  
16 henceforward, but I hope we shall see your happy face  
17 again many times before we are through.

18 I wish to endorse the tribute Mr. Smith  
19 paid to the Department men. They have been outstanding  
20 and so courteous to us that I feel greatly indebted.

21 COMMISSIONER SMITH: My lord, I would like  
22 just to add this, that I overlooked referring to the  
23 very excellent way in which Mr. Jacques has performed  
24 his duties in connection with this Commission's work.  
25 I have leaned heavily on his advice and assistance,  
26 and I want to say quite positively that nobody  
27 appreciates more than I do the value of his high legal  
28 talents to the work of our Commission.

29 THE CHAIRMAN: Maybe that is because he was  
30 so quiet for the last few days! We were not used to





1 that.

2 Thank you, gentlemen. This officially  
3 closes our public hearings. That does not mean that  
4 we are not going to have any other. We hope to be  
5 able to get whatever further information we might need  
6 through other means, always keeping in mind it is to  
7 be public, in that whatever other information we get  
8 will be at the disposal of all those concerned, and you  
9 will be informed also through the means I told you  
10 before. So, now, after twenty five months, we come  
11 to the final stage of the public hearings.

12 Now remains the study, analysis and drafting  
13 of the report. This, we have already started and this  
14 will be our task, and when you rest somewhere during  
15 the summer, you may be sure that we are working here,  
16 hoping to have a rest, but we will have no rest until  
17 it is finished because we will not be able to enjoy  
18 any rest until the signature is put on the report.  
19 Then, I propose to have a big one.

20 Thank you very much, and thank you very  
21 much for your kind co-operation, because we had from  
22 all quarters complete co-operation. This, we have  
23 appreciated very much, but I do not mean that your  
24 co-operation should finish now, because we are going  
25 to ask you to help us again in the future. Thank you  
26 very much.

27

28

---Adjournment.

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